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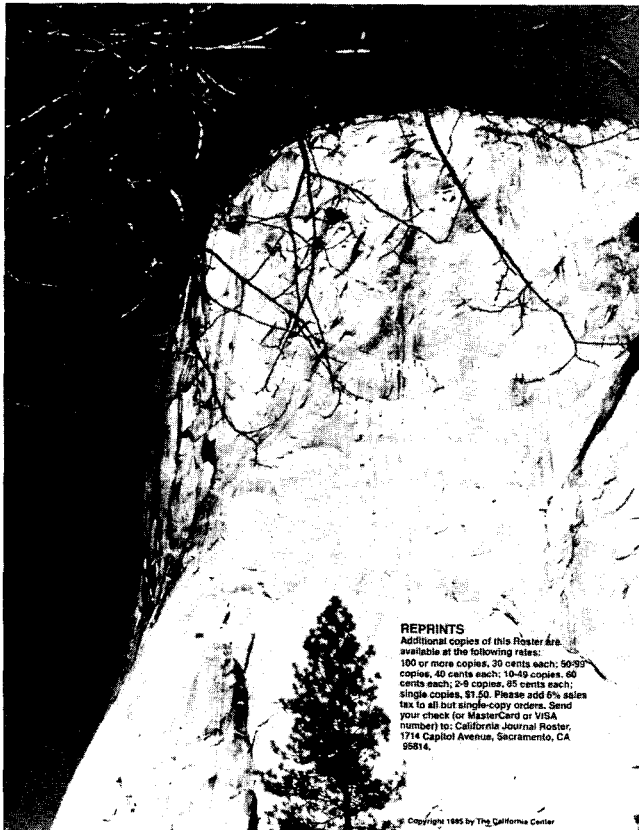


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CALIFORNIA BUDGET 1984-85

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A BUDGET OVERVIEW

By ROBERT FAIRBANKS

For the second year running, Republican Governor George Deukmejian showed himself to be in firm control of state government's fiscal affairs. For the most part, what he wanted for the state budget stayed in and what he didn't want was thrown out. What the governor wanted most of all this year (and last) was a reserve fund of nearly \$1 billion — a pot of cash that could triple in size by 1986 and allow him to offer an election-year tax cut.

The Legislature's Democratic majority, not challenging the need for some reserve, struggled to divert much of the money into new state programs or expansions of old ones. But it was no use: Deukmejian vetoed away their spending proposals. None of this is to say that the governor is some kind of superman leader, able to overcome all obstacles and bend the Legislature to his will. Although he is firm, tenacious and knows how to say "no," his control over state fiscal affairs is as much a product of outside circumstances as any inner strength of his own.

He is in control mostly because the law gives him authority to veto specific appropriations in the budget bill or any other spending measure, known as "line-item veto authority." It means direct gubernatorial power over virtually all state programs. It is a power denied to the president of the United

States, who generally must accept or veto in entirety whatever legislation the Congress sends him. Unlike the president, the governor of California need not accept a host of undesirable items to get what he wants.

However, the power to veto specific items is of little value if the Legislature is given to overriding vetoes. But in this regard Deukmejian has had faithful support from the Assembly's Republican minority. Since a gubernatorial veto cannot be overridden without a two-thirds majority (54 votes in the 80-member chamber) and since Democrats have only 49 votes, our loyalty to what makes the governor's escapade work. The Senate Republican minority also supports the governor, but not to the same degree. In June the upper house handed Deukmejian his first override of a school bond issue — and it was done with Republican support.

This year as last, Democrats resisted the governor's control, but negotiations were easier and less acrimonious than last. The reason? More money to spend. According to Legislative Analyst William Hamm, an upturning economy will boost the state's general fund revenues nearly 11 percent in 1984-85 over the previous year. As a result, Deukmejian and the Democrats' majority made peace on the issues of higher education and the public schools, with the governor agreeing to provide significant new financing for each.

But major conflicts remained as Democrats sought to boost funding in other areas as well. Unlike last year, when they proposed a tax increase to provide the necessary revenues, Deukmejian this time urged Deukmejian to permit additional spending by whittling down his proposed \$500 million "rainy day" reserve. But Deukmejian refused and instead charged

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You'll be able to separate fact from fiction and major issues from minor with **California Journal's** low-cost guide to the 1984-1985 state budget. This handy 16-page booklet includes a description of the battles involved in adopting the budget. Other sections of the report provide an overview of the \$30 billion spending plan, a summary of education spending, local government funding, health and welfare budgets, transportation, bonds and more.

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MANAGING EDITOR

A.G. Block

ART DIRECTOR

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George Harper

WASHINGTON CORRESPONDENT

Leo Rennert

CONTRIBUTING ARTISTS

Paul Duginski, Steve Greenberg

STAFF: Hope Tuttle, Mary E. Gillis

Robin G. Robinson

COUNSEL: Conrad Lee Klein

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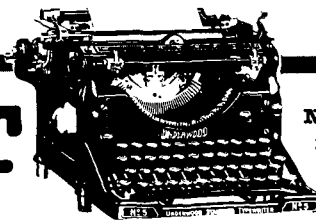
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UP FRONT



Notes and Items
from Contributors
and the Journal Staff.

The news that Democrat Gary Hart might abandon his state Senate seat for a shot at the governorship in 1986 has caused several Santa Barbara-area politicians to dust off their crystal balls. One is the man Hart defeated after a torrid 1982 campaign — former GOP Assemblyman Charles Imbrecht. Imbrecht, now chair of the state Energy Commission, says he'd like to run but won't make up his mind until after studying what the last reapportionment did to GOP chances in the 18th District. Should Imbrecht take the plunge, it could create a political *déjà vu*, for another potential candidate is something of a Gary Hart clone: Democratic Assemblyman Jack O'Connell of Carpinteria, who, like Hart, is a tall, unassuming former teacher. O'Connell, who admits that some colleagues already refer to him as "senator," likes the idea of a four-year term but isn't sure he wants to leave the Assembly. Another name that surfaced recently is that of John Flynn, a Democratic supervisor from Ventura County.

Steve Swatt, the respected political correspondent for Sacramento's KCRA-TV, fared about as well on Super Bowl Sunday as did the Miami Dolphins defense. Shivering in below-zero temperatures near the nation's Capitol, Swatt did a live-remote report on President Reagan's private swearing-in ceremonies while another Sacramento station froze viewers to their sets with the year's most important football game. Two hours later, his station aired his special about Reagan's first four years in office opposite the last half of "60 Minutes." "I haven't seen one person yet who saw it," Swatt laments.

(Bruce Scheidt, Sacramento)

State Senator John Garamendi and his wife Patti, who served as Peace Corps volunteers in Ethiopia from 1966 to 1968, raised \$10,000 for Ethiopian relief at the Democratic state convention in January. Their goal was \$10,000 but they had only \$7800 and there seemed little chance of getting the rest when Orange County delegate Chris Townsend came to the rescue. In return for a Garamendi speech at a future date, he arranged for Orange County Associates, a group of young professionals, to pledge the necessary \$2200.

Also at the convention, U.S. Senator Alan Cranston told delegates that he really didn't do so badly in last year's presidential race. "I spent \$5 million; Mondale spent \$40 million. Mondale only got 13 more electoral votes than I did, so I think I did pretty well."

California's tax-amnesty program, which ends March 15th, has produced a few chuckles as chronicled by Len Taylor, a supervisor of the Board of Equalization's tax-amnesty unit.

- No sooner had the program begun last December when, in the spirit of Christmas, a Santa Claus applied to the Board for amnesty and paid more than \$3000 he owed in sales and use taxes on photos and gift-wrap services he provided in shopping malls.

- The Franchise Tax Board received an application which noted, "Since I am in prison until 1989, I don't have the money to pay."

- An anonymous return brought \$251 in cash and the notation, "Tax due you for auto." The signature: "Making it right as a Christian."

- A county fire department confessed that it owed \$807 in unpaid use taxes on its 1981 purchase of a fire truck — the only known case of tax evasion by a government agency.

Authorized in legislation by Democratic Assemblyman Tom Hannigan of Fairfield, tax amnesty is a one-time opportunity to pay unreported or under-reported back taxes without penalty or prosecution. For personal income tax, contact the Franchise Tax Board. For sales and use tax, call the Board of Equalization.

The Anti-Defamation League of B'nai Brith is launching what it hopes will be an annual series of money-raising dinners at the Capital. The first, at \$200 a seat, will be held March 26th and will feature the presentation of a public service award to Governor Deukmejian.

Mike Paparian, top Capitol lobbyist now for the Sierra Club, doesn't agree with all the environmental policies of a prominent fellow Armenian, one George Deukmejian. "I'll fight shish kebob with shish kebob," he vows. Paparian, 30, replaces John Zierold, who retired. Re-

placing Paparian as second-in-command is Joy Oakes, formerly with the Audubon Society in Washington, D.C.

As most travelers along California's coastal route are aware, Father Junipero Serra, a Spanish Catholic priest, left his mark on the state during the 1700s by founding a string of missions that endure to this day. Now, plans by the U.S. Postal Service to issue a postage stamp commemorating the 200th anniversary of Serra's death have sparked protests by a group called Americans United for Separation of Church and State. A spokesman says the stamp unlawfully would single out one religious faith for recognition by the Postal Service. Despite the protest, it looks as if Serra will get his stamp. A Postal Service spokeswoman says the stamp probably will be issued for overseas postage, linking it to a similar stamp already printed by Spain. If it isn't issued, someone close to President Reagan will look a little silly. Interior Secretary Bill Clark, who is heading back to his ranch near Paso Robles shortly, announced the stamp at a ceremony last October on the Spanish island of Majorca.

(Steven Pressman, Washington)

Political consultant Clint Reilly had an impressive, full-page ad in the program for January's Democratic Party Convention. "Cream rises to the top," it headlined over close-up pictures of four Reilly clients. Alas, the cream was curdled. The ad identified Bill Honig as president pro tem of the Senate and Dave Roberti as superintendent of public instruction. Dianne Feinstein and Tony Coelho came out okay.

Readers of *The Washingtonian*, the monthly city magazine in our nation's capital, recently saw none other than Congresswoman Bobbi Fiedler of California plugging burgers for Hamburger Hamlet — the California-based, upscale, brass-and-fern eatery chain that operates three outlets in Washington's better neighborhoods. The Chatsworth Republican was returning a favor for Marilyn Lewis, Hamburger Hamlet owner and a Fiedler constituent. Paul Clarke, Fiedler's executive assistant, explains that Lewis once catered, for free, a California State Society party on Capitol Hill. Fied-

Bobbi Fiedler Loves Hamburger Hamlet



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Congress of the United States, (21st District, California)

"I think it's terrific to find California's great cuisine available here in Washington at Hamburger Hamlet."

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Georgetown

ler, an officer in the society, returned the favor by appearing in the ad. Clarke says this is not the start of a new Fiedler career.

(James R. Carroll, Washington)

If, as expected, Bobbie Fiedler announces for the U.S. Senate, watch for a familiar last name to announce for her seat. Richard Dornan, brother of Republican Congressman Robert Dornan of Garden Grove, is mulling his prospects. Brother Bob has no doubts and is ready to crank up his formidable money-raising machine on Dick's behalf. "I have a lot of signs left over from my campaign and they just say 'Dornan,'" says Bob. Dick Dornan, a San Fernando Valley school teacher, lives in Westlake Village.

It sounds as though it belongs to the State Architect. but it's now part of the state Senate — the Office of Floor Analyses. It's really quite rational. Senate Democrats and Senate Republicans each used to have separate staffs to analyze every item that came up for a vote on the Senate floor. Now the functions are reduced and combined in one non-partisan office. Senate staffer Rick Rollens is in charge.

Ed Rollins, who left a Republican staff job at the Capitol a few years back to become a political adviser at the White House, became a private consultant shortly after the November elections and was telling a reporter recently how much he liked the new life. He had more leisure, might quadruple his income and would avoid any more of the health problems that often afflict those in high-pressure jobs. (Rollins, 41, noted that he'd

had a stroke two years ago.) He joked, though, that he still had his White House pass. And he needed it, for Rollins last month returned to the White House, coaxed back by President Reagan to become senior political adviser.

(Steve Swatt, Sacramento)

Assemblyman Gray Davis, who is not Jewish but whose Los Angeles district is 35 percent Jewish, keeps at-the-ready on an end table in his office a paperback book. It's a present from *Long Beach Press-Telegram* Capitol reporter Bob Schmidt and it's entitled: *Every Goy's Guide to Common Expressions of Jewish People*.

The California Church Council is not altogether pleased by the state's fiscal good health. Under the heading "The State Budget Surplus Has Ruined Our Timing," the Council's legislative newsletter reports that supporters of a drive to increase beer and liquor taxes are dropping their plans because of their inability to whip up any legislative or gubernatorial desire. "Maybe next year," the newsletter concludes.

Pat Brown was talking about his years as governor with a group of Capitol reporters recently and explained why he always gave so much money to the University of California. He says it all came from his sense of inferiority at never having received a college degree. "My greatest feeling as governor was to sit on that Board of Regents," he smilingly recalled.

Something old, something new, something borrowed, something blue. No, we're not referring to a wedding. It was the *California Journal/Coro* Foundation roast of Attorney General John Van de Kamp on January 30th, and we're referring to some of the one-liners that flew about.

- Justice Stanley Mosk on Van de Kamp's reputation for fence-sitting: "If John keeps this up, he's going to give equivocation a bad name."

- Former Attorney General Evelle Younger, also on fence-sitting: "And he knows that there are two sides to every question, and he usually takes both of them."

- Senate President pro Tem Dave Roberti: "Finally, we have an attorney general who doesn't believe convictions are his business."

- Assembly minority leader Pat Nolan on Van de Kamp's personality: "Even as

a kid, John was dull. His idea on Halloween was to dress up as an accountant."

- Andrea Van de Kamp, also on her husband's personality: "He's so straight that he won't take the 'Do not remove' tag off our electric blanket. He's the only guy you know who hears the word 'autoeroticism' and thinks it's a car rally."

- Former Governor Pat Brown on the office he once held: "The attorney generalship is the greatest stepping stone to higher office of any office in the state. If you do anything wrong, you blame the courts, or you blame the Legislature or the press."

- Host B. T. Collins, former chief of staff to Jerry Brown, introduced Pat Brown by saying that Jerry once asked Pat, "Am I adopted?" According to Collins, Pat replied: "Adopted? You think we'd keep you?"

- L.A. TV commentator Bill Stout on the politicians nearby: "I must say that it's a bit depressing seeing at this head table this collective reminder of the kind of people we elected to high office in the past."

- Telegram to Van de Kamp from Governor George Deukmejian: "Who says dullness is a political liability?"

- Van de Kamp: "Well, he should know."

Van de Kamp's closing remarks included this description of the Coro Foundation's function as provider of public-service fellowships to young people: "An organization built on the proposition that if young people are exposed to a little government, they'll want a lot more."

Come across a blurb lately that's nosy, newsy or smart-alecky about California government, politics or politicians? Share it with the Journal. We pay up to \$25 for entertaining tidbits published in "Up Front," so rush your items to Up Front, 1714 Capitol Avenue, Sacramento 95814.

"The most essential qualification for a politician is the ability to foretell what will happen . . . and to explain afterwards why it did not happen."

— Winston Churchill

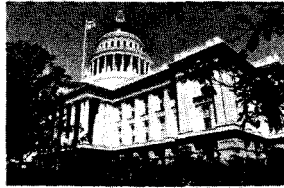
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Capitol review

You have to hand it to Tom Hayden for sponsoring what was easily the most interesting single event at the Democratic state convention in Sacramento. It was the Saturday evening (January 26th) forum on "The Future of the Democratic Party." Not that others haven't been thinking along those lines. California Democratic leaders, like others across the nation, have been full of future-talk since Walter Mondale's embarrassingly thorough defeat last November. What Hayden did was to analyze the problem through a panel of good speakers (including himself) and present some ideas for a solution; that is, for returning the party to power.

There's not enough space here to recap the entire discussion, except to say that one of its major aims was to disabuse everyone present from any belief that Ronald Reagan's victory was largely a function of the president's personal popularity and that happy days for Democrats will return when Reagan is gone. Backed up by statistics from pollster Pat Caddell, which showed long-term Democratic declines within nearly all categories of voters, Hayden was able to declare: "The Democratic party is busy dying."

Now 45, Hayden burst into California politics back in 1976 with a run against incumbent U.S. Senator John Tunney in the Democratic primary. Despite the controversy surrounding him — as Vietnam war protestor, one of the Chicago Seven and the husband of actress Jane Fonda — Hayden made a good showing (1.2 million votes) in his loss. However, he alienated many Democrats who felt that Hayden's slashing attacks set up Tunney for his November defeat by Republican S. I. Hayakawa.

Thus after his election to the Assembly in 1982, Hayden eschewed interviews, tended to the affairs of his Santa Monica-area district and generally aimed to convince his Democratic colleagues that he was an unthreatening team player. Now, apparently secure in their esteem and having been re-elected with 56-percent of the vote, he is becoming visible again.

And, as indicated he puts on a good show. Although the convention featured some rousing speeches, most notably from Senate President pro Tem Dave Roberti, Assembly Speaker Willie Brown and former Governor Jerry Brown, Hayden's was the meatiest event. (Officially, the forum — as it was called — was sponsored by the Campaign for Economic Democracy, the statewide political activist group that Hayden chairs.)

For the more studious, Hayden also distributed a 35-page discussion paper that contained many of the ideas expressed at the Saturday evening session. Titled "Going West," it argues that the party's chances of winning nationally without winning California are slight and that new directions are needed to win this state. Among many other things, his "new directions" included substituting "the politics of investment" for the "politics of distribution," promoting a clean environ-

ment, promoting personal safety and filling the moral void in public education. (Hayden's office says it's still giving out copies, free. Call 916-455-1676.)

Although Hayden was the paper's primary author, it was presented jointly to reporters by Hayden and Los Angeles attorney John Emerson, who served as chair of U.S. Senator Gary Hart's victorious California primary campaign. According to Emerson, a group of veterans from the Hart campaign is forming a new organization to get Hart people involved in rebuilding the Democratic Party. He said that the organization has an overlapping membership with Hayden's CED.

Hayden and Emerson contended that Democrats must go after the youthful white-collar and blue-collar workers (Yuppies and Springsteens, respectively, is how they described them) many of whom are now voting Republican. When asked about the special-interest caucuses — blacks, browns, seniors, environmentalists, etc. — that now tend to dominate party affairs, Hayden replied that they must practice "self-imposed restraint." (In the "Going West" paper, Hayden proposes that Democratic primaries be opened to independent voters, a move that would dilute special-interest strength.)

What all this means for the future of Democratic politics in California is hard to say. Hayden and Emerson were hardly alone in calling for change. Jerry Brown urged it, as did Lieutenant Governor Leo McCarthy in his keynote address to the convention. And Los Angeles District Attorney Ira Reiner, in an angry speech, lashed the party for ignoring public wishes over recent years in connection with crime, taxes and education.

"We've come a long way from the idealism of fighting for a free quality public education for all to acting as the apologists for a public school system that tolerates such low standards that it is only a minor hyperbole to say that students are graduating from high school who can't scratch their name in the sand with a sharp stick," Reiner declared.

What distinguishes Hayden and Emerson from the generalized urgings of a Brown or McCarthy or the outrage of a Reiner is the Hayden-Emerson reliance on organization and plan. Dissatisfied with the old and looking for a change, Hayden's CED and activists from the victorious Hart organization could become an influential force in Democratic politics. (Also working for Hart, remember, were powerful Los Angeles congressmen Henry Waxman and Howard Berman.)

The immediate beneficiary of all this could be another Gary Hart — the state Senator from Santa Barbara who has announced that he is considering a run for the Democratic gubernatorial nomination in 1986 regardless of what Los Angeles Mayor Tom Bradley decides to do. In addition to Hayden, his exploratory committee includes Waxman and Berman.

Robert Fairbanks

SETTING UP THE CALIFORNIA LOTTERY



Some will strike it rich before the first ticket is sold

By STEVE WIEGAND

California's lottery has yet to lay its first golden egg, but swarms of people in and out of the state are already whetting their appetites for omelettes. The salivating swarms include educators, vendors of lottery products, advertising agencies and retailers with eyes toward selling lottery tickets. Some are already making money. These include the public-relations firms and lobbyists who have been hired to help assure that their clients receive the most generous shares.

Those who weren't too distracted by the presidential race last fall will recall that California voters approved the

lottery — the state's newest try at taxes-without-pain — by a handy margin. As a result, California is no longer the only state in the 20th Century whose voters rejected a lottery.

That occurred in 1964 following revelations that the ballot measure was drawn so that only its sponsor could bid for the contract to run the lottery. Despite similar allegations this time, voters apparently decided there was enough in a lottery to go around.

That may be a considerable understatement. "I don't think a lot of people out here (in California) appreciate just how big this is going to be," says Daniel Bower, president of Scientific Games, Incorporated, the company that financed the successful lottery initiative drive. "We're talking very big money here."

Estimates of just how big vary according to the estimator's philosophical and economic bent.

Governor George Deukmejian, who opposed the lottery

Steve Wiegand is a Capitol reporter for the San Francisco Chronicle.

and who probably wouldn't be broken-hearted if the lottery were less than an overwhelming success, has calculated that first-year sales will reach about \$900 million. Lottery product companies, with more experience at these estimates than Deukmejian and more reason to lean toward cockeyed optimism, say the first year's sales could reach a staggering \$2 billion. And William Hamm, the Legislature's independent analyst who isn't known for leaning too far either way, puts the figure at about \$1.25 billion.

That amounts to about \$50 worth of wagering for every man, woman and child in the state. Since no one under 18 can play the lottery, adults will have to pick up the slack.

How big is it?

However you slice it, it comes up big money. How big? Using Hamm's estimate, consider that the lottery will:

- produce more revenue than the combined gross national products of the countries of Chad, Laos and the Solomon Islands;
- be larger than the total budgets of six states;
- amount to more money than the gross revenues received by the top three companies operating in California in 1983; and
- perhaps equal the value of Assembly Speaker Willie Brown's entire wardrobe.

"In terms of net revenues, California's lottery will become one of the nation's top 50 corporations," says Owen Hickey, director of the Colorado lottery, "with all the attending economic ripples."

The most conspicuous ripple, and the one the public is most interested in, is the prize money. Half of the lottery's total revenues will go to prizes, which is a long way from saying that half of the lottery tickets will be winners. Instead, a bunch of lottery players will make contributions, to million-dollar payoffs for a select few (for an alternative, see box).

Another portion — 34 percent — will go to schools, from kindergartens to the University of California. Hamm estimates the schools' share from the first full year of operation at \$500 million. Of that, \$400 million would go to elementary and high schools, an amount equal to 4.2 percent of the total they will receive from state government during the current fiscal year. The rest would be divided

between the state college and university systems, the community colleges and the University of California.

Although not a dime has been gambled so far, educators from state schools chief Bill Honig to local high school department heads are already speculating, squabbling and all but spending. Honig and other officials are debating whether to feed the money into their accounting system in a way that might generate additional state funds. At a local high school, teachers in the music department are at odds over whether to spend the money for new instruments or books.

Overhead

The rest of the money? The rest — up to 16 percent, or an estimated \$200 million — is designated for what is euphemistically described as "administrative overhead." A significant slice of that will go to the companies chosen to supply the state with tickets, computer systems and lottery know-how.

Scientific Games, which spent more than \$2 million on California's lottery initiative campaign, spent another \$250,000 to enact a similar measure in Oregon and recently won a ticket-supply contract there, reportedly worth \$5 million. Since California is 10 times bigger than Oregon, it stands to reason that California's contracts will be worth considerably more than pocket change.

Although Scientific Games is considered the front-runner in landing the first California contract, other firms in the still-young-but-already-cutthroat lottery industry have served notice they will be here armed to the teeth with their own proposals. "We expect to be a factor," says Bill Turner of Electro-Sport, an Orange County-based company and one of the few lottery firms with California roots. "There's too much money at stake not to try for part of it."

(Some rivals contend that Scientific Games put language in the initiative — concerning vendor disclosure statements — to favor itself in the bidding. Scientific Games' officials deny the charge and say that this is sour grapes from companies that were not willing to gamble by putting money into the initiative campaign.)

Other firms that have expressed more-than-passing interest in lottery contracts include Illinois-based Response

LOW JACKPOTS, THOUSANDS OF WINNERS

By ALEX KLINE

With revenues from the pending lottery projected at more than \$1 billion a year, the state of California has the opportunity to devise a unique awards system. By limiting jackpots to \$10,000 each, over 100,000 people could annually win a significant amount of money. As current lotteries go, the odds of striking it rich are 10 or 20 million to one, and for the tiny few lucky enough to win, the silver cloud is often accompanied by broken marriages and friendships and by stable lives suddenly gone haywire.

But if jackpots are kept at around \$10,000, the winners are more likely to put money into something realistic, like a down-payment on a house, seed money for a business or a college fund. But they're not likely to quit their jobs or alienate their friends and family.

Alex Kline is a freelance writer and an editor with the Center for Innovative Diplomacy in Palo Alto.

If projected lottery revenues are correct, there could be over 100,000 such winners each year. In ten years over one million people would have won a \$10,000 jackpot. Put another way, the probability of winning the lottery would be closer to one in 10 or 20 thousand than one in 10 or 20 million. That's akin to the difference between the odds of being struck twice by lightning and the odds of having your tax return audited.

Such a lottery would also put large chunks of unanticipated, discretionary money in the hands of many consumers who could then spend for new cars, boats, vacations, parties or the like, thus "stimulating the economy." Or winners might put their money to less-materialistic uses such as better food, education for their children or into a retirement fund. In either case, a significant amount of money would circulate at the lower end of the economy rather than being tied up in large a chunk at the top.

Graphics, a division of Moore Business Forms; Webcraft Games, a New Jersey-based subsidiary of Beatrice Foods; Control Data Corporation of Bloomington, Minnesota; American Totalisator Company, a division of General Instrument Corporation; Reno-based IGT Corporation; GETECH, based in Rhode Island; and Games Management, a division of the British-based Vernons Organization.

To further their cause, several lottery firms have already hired public-relations agencies and lobbyists to represent them in Sacramento. Scientific Games has hired Woodward-McDowell, the PR firm that ran the successful lottery initiative. The company has also retained Sacramento lobbyist Nick Konovaloff. Games Management, not to be outdone, has hired Sacramento lobbyist Bernard Teitelbaum and the Los Angeles-based public-relations firm of Cerrell Associates.

Other profiteers

Lottery companies aren't the only ones that stand to profit when Californians play the numbers. Telephone companies will doubtless profit handsomely from providing "secured" telephone lines for the lottery system's computers. (The lines are designed to prevent brilliantly sophisticated criminal syndicates, or precocious high school sophomores, from tapping into the winning numbers before the rest of us find out what they are.)

Advertising agencies will also fiercely compete to design the jingles and flashy billboards that will inundate, respectively, the airwaves and roadsides, urging Californians to invest their sporting dollars in the lottery. And then there are the ticket agents, retail establishments and civic and charitable groups lucky enough to be chosen to sell lottery tickets.

Lottery experts say that the rule of thumb for determining the number of ticket outlets needed in a state is to provide one for every 1200 people. In California, that would mean a whopping 20,000 ticket outlets.

Under terms of the lottery initiative, ticket agents can be paid up to five percent of the gross for the tickets they sell, plus incentive bonuses. That can amount to thousands of dollars a month for having been clean enough to pass a security check and doing a little bookkeeping.

For a mom-and-pop store, that's not bad dough. Chain outfits, perhaps more blasé about such sums, must compete for lottery agent contracts also since they have to

Advertisement

ensure that they offer all the services their competitors do.

"If one store in an area is selling tickets," said Scientific Games' Bower, "they all want to. The competition can get fierce."

It already shows signs of that in California. The liquor lobby has argued that ticket outlets should be located in bars and stores that sell liquor, since the employees of those establishments would already be trained to enforce age-restriction laws — such as the lottery's 18-and-over rule. Non-profit groups and civic organizations are arguing that they should have first priority. And large retail chains contend that the tickets should be sold in the places that attract the most people on a daily basis.

Despite its rather unusual status as the only government agency that is expected to make money, the lottery will also have a few things in common with other agencies — namely an army of bureaucrats. Lottery experts from other states estimate California's lottery payroll could easily reach 1000 by the end of the year, with people needed to deliver tickets, act as agents to help — and monitor — ticket sellers, man the computer system and do all those other things bureaucrats find to do. Just how many will be bonafide state employees and how many will be private sector workers under contract is unclear.

"It's something we haven't focused on yet," says Keith Hearn, a spokesman for the California State Employees Association. "But we will. Generally, if it's to fill a job that regular state employees are already doing in other agencies, the jobs should go to state workers and not outside contractors."

Something for everyone

It would seem, then, that the lottery has something for nearly everyone. Even the Legislature — the one group that was specifically singled out for exclusion by the initiative's authors — is getting into the act.

"We wanted to make it as complete as possible so that there would not be a lot of room for tinkering with it," said Dick Woodward, one of the team that pushed the lottery initiative through. "So we specifically designed it to discourage the Legislature from trying to make changes."

Lottery proponents say they are most concerned that the Legislature will attempt to dictate how the schools' share of the lottery revenues should be spent, or cut other state aid to schools in proportion to the amount they get

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THE CITIZEN'S VOICE

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THE LOTTERY COMMISSION

The lottery is to be run entirely by a five-member commission composed of gubernatorial appointees. The initiative required their appointment by December 7th, but Deukmejian, stressing the need for caution and care, did not make his announcement until January 29th. At an early February news conference, the appointees said that they, too, would not rush ahead and would proceed cautiously toward the next step — hiring an executive director. Obviously, the Commission will not make the initiative's March 21st deadline for having tickets ready for sale. Not to worry, though; the initiative carried no penalties for failure.

Commissioners serve for five years but since the terms must be staggered, the governor nominated three for less than full terms. Also, the initiative required that one commissioner, be an accountant and another have at least five years of law-enforcement experience. Commissioners, who require Senate confirmation, receive \$100 per day and are compensated for necessary expenses.

Howard E. Varner, 59 Chairman

Chairman of the board and former president of Host International, a national restaurant chain and Santa Monica-based subsidiary of Marriott Corporation. Holds a degree in banking and finance from the University of Illinois. A Republican from Pacific Palisades, his term runs for two years.

William J. Johnston, 58 Vice Chairman

Superintendent of the Los Angeles Unified School District, 1972-81. Director of public affairs for Southern California Gas Company, 1981-84. Holds a doctorate in education from UCLA. One of two commissioners who voted against the lottery initiative (Proposition 37) last November. A Republican from Los Angeles, his term runs for five years.



JOHNSTON WEBSTER
VARNER MONTGOMERY PRICE

Laverta Montgomery, 48

City manager of Compton, 1982-present. Former director of the Compton Redevelopment Agency and former Compton city controller. A Republican, she was appointed to a five-year term.

John M. Price, 65

District attorney for Sacramento County, 1959-79, he fills the law-enforcement requirement. Holds degrees from University of California, Berkeley, and from Boalt School of Law. Now living in Mendocino County, he is a Democrat whose term runs four years.

Kennard Webster, 64

A former partner in Deloitte, Haskins & Sells — one of the nation's largest accounting firms — Webster fills the mandate for an accountant. He is the second commissioner who voted against Proposition 37 last November. A Democrat from Palm Springs, he was appointed to a three-year term.

from the lottery.

To avoid that, the initiative contains language that expresses the voters' "intent" that lottery revenues are in addition to — not in place of — other school aid, and that the money is to go to the schools with no strings attached.

But the intent of initiative drafters — or voters — has never been much of a stumbling block for a determined Legislature.

A dozen bills are already pending in the Legislature to change the lottery, including measures that would:

- require elementary and high school districts to use lottery funds to reduce class size and require community colleges to spend their share on remedial programs (AB75, Hughes);
- give preference to nonprofit corporations in the selection of ticket agents (AB168, Agnos);
- raise the minimum age for buying lottery tickets from 18 to 21 (SB34, Dills);
- make it a misdemeanor to knowingly sell lottery tickets to youths under the age of 18. The initiative did not include any criminal penalty for this (AB2, Alatorre); and,
- require that lottery revenues be used to build new

schools and senior-citizens centers, and increase the size of the lottery commission from five to 13 by adding some local officials and appointees of the Assembly speaker and state Senate president pro tempore (ACA1, Bane).

Legislators defend their voracious interest in the lottery by contending that this initiative, like most others, has fatal flaws that only seasoned lawmakers can correct.

"Everybody who draws up an initiative always tries to keep the Legislature out because they are afraid the Legislature may correct any imbalances or inequities," said Assemblyman Art Agnos, a San Francisco Democrat. "But we have every right to fine tune it without disturbing the fundamental thrust, and that is that the people want a lottery."

Unfortunately for Agnos and his colleagues, the governor seems unwilling to go along. When asked recently about some of the legislative proposals he said he saw no need for any significant changes. "I think we should give great deference to the vote of the people," he said.

And so, it seems, we shall have a lottery much as voters approved it: a system for gathering small contributions from millions of people for the benefit of a relative few. 🏠

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ACTIONS: 06/06/84 PASSED BY ASSEMBLY COMMITTEE ON
          06/13/84 WAYS AND MEANS
          06/13/84 PASSED BY ASSEMBLY
          06/13/84 INTRODUCED IN SENATE
          06/20/84 REFERRED TO SENATE COMMITTEE ON
                GOVERNMENTAL ORGANIZATION

VOTES: 06/06/84 ASSEMBLY FISCAL COMM VOTE P 13-7
        06/13/84 ASSEMBLY ROLL CALL P 43-30

CALENDAR: 07/03/84 SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
          ROOM 3191 8:30 A.M.

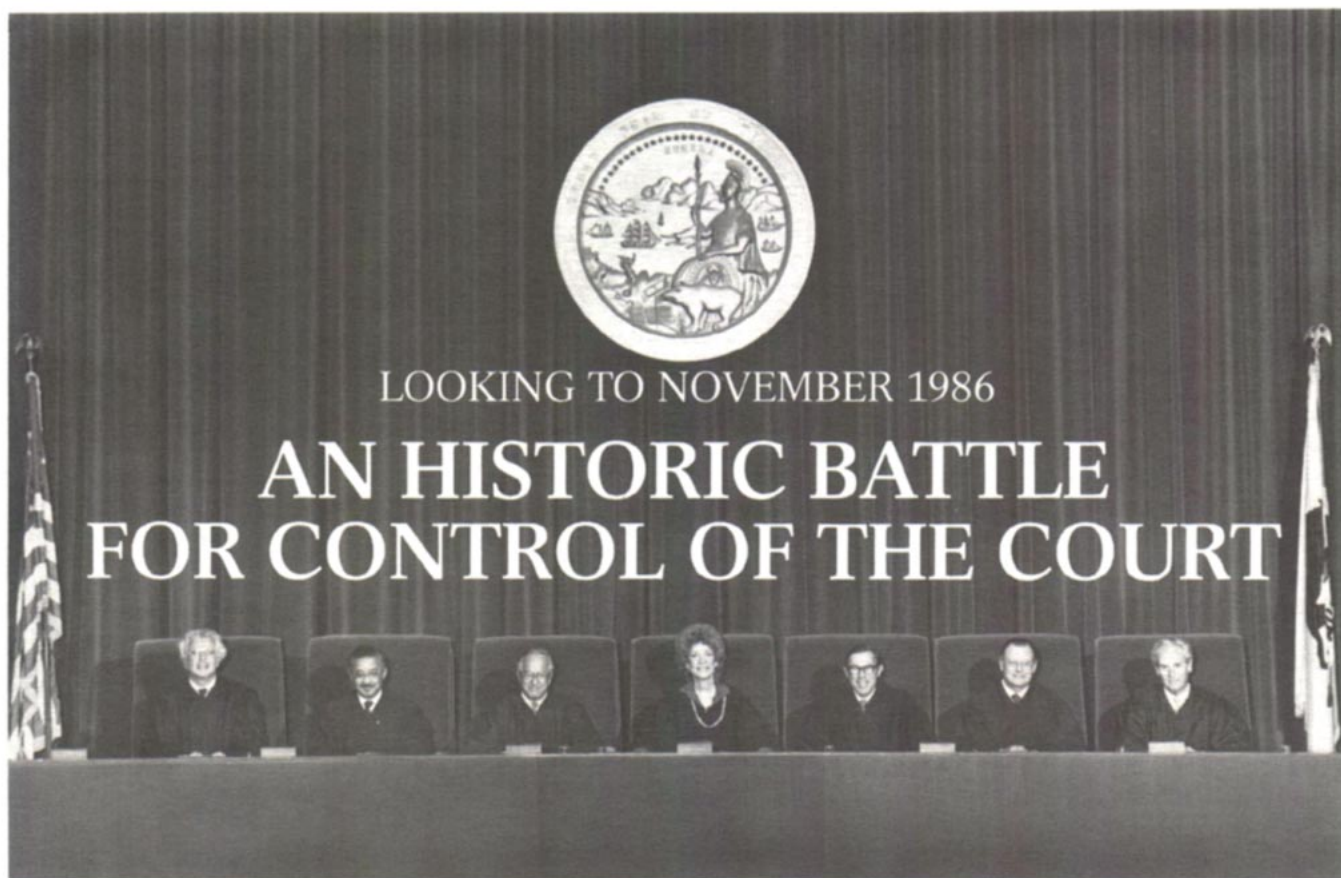
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By RICHARD BERGHOLZ

Move over, Governor Deukmejian. Step aside, Senator Cranston. Your reelection campaigns next year are important, sure. But for long-term historical significance, nothing can match the fight for control of the state Supreme Court. It's an election battle like you've never seen before, far beyond the usual judicial confirmation contest tucked deep down in the ballot, often so dull and routine nobody pays much attention to it.

Not so now.

A host of partisans is beating the drums for a campaign to unseat Chief Justice Rose Elizabeth Bird. Many of them have been after her since her appointment to the Court in 1977. They almost beat her the first time her name appeared on the ballot in 1978 (she squeaked through with 51.7 percent of the vote). They've tried to organize recall elections against her, with no success. But now she's up for confirmation to a full 12-year term, and their chance has come again.

And it's not just Rose Bird. Many of her foes also want to refuse confirmation to three of her fellow justices on the November 1986 ballot — Stanley Mosk, Cruz Reynoso and Joseph Grodin. A fifth justice on the seven-member Court — Malcolm Lucas — also is up for confirmation. But he is Deukmejian's only Supreme Court appointee thus far, and in the eyes of Bird's critics, he's the only member of the

Court worth saving.

If Bird is defeated — and almost everyone agrees that if the election were held today, she would be — she may drag down Reynoso, Grodin and probably Mosk, the senior justice on the Court. And if that happens, and if Deukmejian is reelected at the same time, the Republican governor would choose their replacements. In one fell swoop, the Court would swing from liberal to conservative.

Although Bird and Deukmejian have been foes for years, and although his former campaign manager, Bill Roberts, is masterminding one of the attack groups, Deukmejian's supporters contend that the governor is not behind any of the anti-Bird campaigns. However, his opinion of her is no secret. Although he has opposed recall campaigns against her in years past, he has declared that he will vote against her in the regular 1986 election. Among other things, he charges that she is substituting her personal beliefs for the law by regularly refusing to impose the death penalty. For her part, the chief justice has charged that Deukmejian, as attorney general and a member of the Commission on Judicial Appointments, acted improperly by questioning prospective judges about their beliefs on issues that were before the courts.

Anti-Bird groups

There are three separate groups shooting at Bird — Californians to Defeat Rose Bird, Bird Watchers Society and Crime Victims for Court Reform. The first is sponsored by tax crusaders Howard Jarvis and Paul Gann, Republican state Senator Ed Davis of Northridge and Republican Assemblyman Ross Johnson of Fullerton. The second is

headed by GOP Congressman William Dannemeyer of Fullerton, Republican state Senator John Seymour of Anaheim and Johnson, with state Senate Republican leader James Nielsen of Woodland an enthusiastic supporter. The third group is directed by Deukmejian's man, Roberts.

And there may be more by the time the election nears. Almost certain to be involved is the Republican Party. In 1982, when Justices Allen Broussard, Otto Kaus and Reynoso were on the ballot, the party urged a "no" vote (see box). The three won majority approval nonetheless, but it was close for Reynoso, who got only 52.4 percent of the vote.

Mike Antonovich, the Los Angeles County supervisor and state Republican chairman, says a party-backed campaign against Bird could defeat her "and bring down all the others, giving the governor a Supreme Court that reflects his views."

If the Republicans go against Bird, will Democrats formally defend her?

Party leaders are expected to discuss the question at an executive committee meeting in April. Meanwhile, there appears to be little sentiment for a formal endorsement of Bird herself. However, at the party's state convention in January, Senate leader David Roberti, Assembly Speaker Willie Brown and others talked of a bi-partisan effort that would support her indirectly by defending the "integrity" of the Court; that is, declaring that no justice should be sacked because of his or her alleged political beliefs.

Roberti told convention delegates that he has profound differences with the Court but they are not the issue. The issue is whether California will have an independent Court — "A Court out of politics and politics out of the Court."

Whereas some Democrats appear reluctant to say kind words about Bird as an individual, Brown praises her "scholarship, integrity, her competence" and makes it clear that he, for one, is comfortable with her decisions. The Assembly speaker said he's quite prepared to speak up for her "because she can't fight back; to do so would be to denigrate the Court."

In any case, Democratic support for any pro-Bird effort may not be as enthusiastic as Roberti, Brown and others would like. Los Angeles DA Reiner, for instance, generated a stir at the convention with his strong criticism of the Court. The Court, he said, "reflects an attitude (toward criminals) that I do not think is realistic or that follows the letter or intent of the law." At a press luncheon, he defined

the Court's attitude as "there is no such thing as a bad criminal." Also critical was the party's new chair, Betty Smith of Oakland. She told a San Francisco newspaper that the Court should rely on "fairness" instead of "technicalities" that put criminals back on the streets.

Resignation?

Because of the conflict over Bird and the prospect for her loss, some Democrats privately wish she would resign now and fade away. Her resignation not only would save the party from what could become an angry internal dispute but might also save her colleagues on the ballot — Mosk, Reynoso and Grodin — from joining her in defeat. (Lucas, presumably, is far less vulnerable.) Thus Deukmejian, if reelected, would get only one appointment instead of four, and the Court's liberal, activist tilt would be maintained.

Meanwhile, her opponents are openly requesting her resignation. At separate news conferences in mid-January, the Roberts group and the Bird Watchers Society urged citizens to write or phone Bird and ask for her resignation. (The Roberts group used the theme "Bye, Bye Birdie," prompting Roberti to predict that the anti-Bird efforts would fail because California voters reject "mean, lowdown, nasty attacks.")

But Bird gives no sign of stepping down. Indeed, on January 22nd — shortly after the news conferences and shortly after two *Sacramento Bee* columnists speculated that liberals might also ask her to go — Bird filed a letter with Secretary of State March Fong Eu declaring her intention to seek confirmation in 1986. The action, taken some 19 months before Bird would be required to file a formal declaration of candidacy, helped squelch much of the resignation talk.

The question of party involvement in the Supreme Court races was an open one until last December when the Court itself ruled that the parties could be involved. (*Samuel Unger et al v. The Superior Court of San Francisco*). The case arose out of a challenge to the GOP's involvement in the 1982 Court elections. Two lower courts held that since the law required non-partisan elections, political parties should not be involved. But in a 5-2 ruling, the Supreme Court declared that First Amendment free-speech provisions overrule the non-partisan restrictions of state law and that it should be the Legislature, not the courts, that make any needed changes. (When the case reached the Supreme Court, Bird, Broussard, Kaus and Reynoso excused themselves and four pro-tem justices were appointed by Grodin, as acting chief justice.)

Not surprisingly, many legal experts view this partisan involvement with alarm. Bernard Witkin of Berkeley, one of the most respected Court watchers, fears that the battle over Bird and the Court will bring out the worst sort of political demagoguery and sloganeering. "And if we ever reach the point where conditions are such that we wind up telling the Court, 'If you don't do as we want, we'll remove you,' the courts won't be worth saving," he says.

But Sheriff John Duffy of San Diego, one of Bird's sharpest critics and a member of one of the anti-Bird groups, argues that the Court is already a political institution and that it is long past time to worry about the "politicizing" effect of the anti-Bird campaign. "She got her job through politics," he says, referring to Bird's previous job as a cabinet officer in the administration of former Governor Jerry Brown.

Crime victims

Of the anti-Bird groups, the most unique is the one that brings together crime victims. Called "Crime Victims for Court Reform," it was largely organized by Don Floyd, a

VOTERS AND SUPREME COURT JUSTICES

Unlike justices of the U.S. Supreme Court — who are appointed by the president, confirmed by the U.S. Senate and serve until they die or retire — justices of the California Supreme Court are confirmed by the electorate for 12-year terms.

After being named to the Court by the governor and initially approved by the Commission on Judicial Appointments, a California justice must be confirmed by a majority of voters at the next gubernatorial election. However, the justice does not automatically serve a full, 12-year term. If appointed to an unfinished term (as most are), the justice completes the remainder of that term and then goes before voters again for a 12-year term.

THE COURT



BIRD



MOSK



KAUS



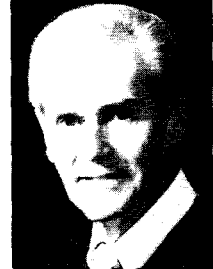
BROUSSARD



REYNOSO



GRODIN



LUCAS

ROSE ELIZABETH BIRD

Chief Justice

Age: 48

Appointed by: Edmund G. Brown Jr. on March 14, 1977, to fill the unexpired term of Chief Justice Donald Wright.

Confirmed: November 1978 (52-48 percent).

Next confirmation: November 1986 for a 12-year term.

STANLEY MOSK

Associate Justice

Age: 72

Appointed by: Edmund G. Brown Sr. on August 31, 1964, to fill the unexpired term of Associate Justice Roger J. Traynor.

Confirmed: November 1974 (74-26 percent).

Next confirmation: November 1986 for a 12-year term.

OTTO M. KAUS

Associate Justice

Age: 66

Appointed by: Edmund G. Brown Jr. on June 22, 1981, to fill the unexpired term of Associate Justice Wiley Manuel.

Confirmed: November 1982 (56-44 percent).

Next confirmation: November 1990 for a 12-year term.

ALLEN BROUSSARD

Associate Justice

Age: 55

Appointed by: Edmund G. Brown Jr. on July 10, 1981,

to fill the unexpired term of Associate Justice William P. Clark.

Confirmed: November 1982 (56-44 percent).

Next confirmation: November 1994 for a 12-year term.

CRUZ REYNOSO

Associate justice

Age: 53

Appointed by: Edmund G. Brown Jr. on January 22, 1982, to fill the unexpired term of Associate Justice Matthew Tobriner.

Confirmed: November 1982 (53-47 percent).

Next confirmation: November 1986 for a 12-year term.

JOSEPH GRODIN

Associate Justice

Age: 54

Appointed by: Edmund G. Brown Jr. on December 27, 1982, to fill the unexpired term of Associate Justice Frank Newman.

Confirmation: November 1986 for a 4-year term.

MALCOLM LUCAS

Associate Justice

Age: 57

Appointed by: George Deukmejian on April 6, 1984, to fill the unexpired term of Associate Justice Frank Richardson.

Confirmation: November 1986 for an 8-year term.

San Diego hay broker whose 17-year-old son was killed by a drunk driver. Angered when the drunk served only about 30 days in jail, Floyd eventually came up with the idea of enlisting all the victims of crime — including the families and friends of the innocent who got killed or hurt — into an organization to tighten sentences and punish “soft” judges.

He was put in touch with Deukmejian’s campaign manager Roberts, the committee was formed and Floyd

and Roberts’ staff started watching the newspapers for the names of crime victims who might join in the anti-Bird campaign. The committee and its endorsers now include a number of people from Deukmejian’s 1982 campaign. One of the things Floyd has done has been to re-publicize some of the heart-rending cases of murder and rape and what Floyd considers “soft” sentences and pro-defendant behavior by judges.

“None of these things turns on the question of innocence

or guilt," says Floyd, "but on technicalities. What Bird is telling us is that we just don't understand the way the law works. Well, maybe we don't understand all the legal technicalities because they don't want us to, but the bottom line is that criminals get coddled in the Supreme Court and it has become an out-and-out protection agency for the criminals."

Officially, the victims' group is campaigning only against those justices appointed by Jerry Brown: Bird, Grodin and Reynoso. However, there's little doubt that its actions are also likely to hurt Mosk, a Democrat appointed by Brown's father — former Governor Pat Brown. Mosk also will be on the ballot in 1986 if he wants another 12-year term. But Mosk, 72, hasn't decided yet whether to run.

Some of his friends don't like the idea of handing Deukmejian another appointment to the Court unless there is some assurance the governor might nominate a moderate generally acceptable to Mosk. The senior justice, a former attorney general, has had his differences with Bird but is not inclined to speak for publication about them.

Grodin is well aware that his fate may rest more with the outcome of the anti-Bird effort than with anything he can do for himself. But "the question of disassociating myself from the chief justice has not been uppermost in my mind," he says. Nevertheless, he and the other justices have talked about the problem, Grodin says, and he intends to form a committee in his own behalf.

"The problem is that it's not a case of any justice's opinion, but the public perception of the Court. The view has grown that our opinions are just predilections of the justices, not our interpretation of the law or the constitution," he says. But, he observes, "Our critics haven't read our opinions." As for his views on the death penalty, the issue of most intense public interest, Grodin says, "It is the law I have sworn to uphold; I don't express my personal views."

Limited ability to fight back

The Canons of Judicial Ethics generally prevent Bird and the other justices from responding specifically to criticism of their Court decisions. The only thing that speaks for a justice, the Canons say, is the written opinion filed in each case. Thus it might be said that the jurists head into an exceptionally virulent campaign with limited freedom to fight back.

But the chief justice is not without resources. For one thing, there exists the Committee to Conserve the Courts, a political action committee with a nest egg of almost \$250,000 (see "Rose Bird's campaign," *CJ*, May 1984). It was set up by her and her friends in 1982 after recall efforts had been launched against her and others were promised. A lot of the money came from trial lawyers — those who represent persons with damage claims and who have benefited from Court decisions allowing greater awards. Bird's office says she has returned contributions from lawyers who had cases pending before the Court.

Bird and the others are almost certain to have a steady supply of surrogates to speak for them when they — as justices — can't. And though the Court's handling of death-penalty cases is likely to be the prime topic for debate, virtually every other decision that the Court has made may be brought forth for review. In such situations, the truth may be the first casualty.

For instance, literature distributed by Crime Victims for Court Reform claims that Bird ruled that "rape does not constitute great bodily harm." That refers to the so-called Caudillo case of 1977, which also figures in the 1978 campaign against Bird's initial confirmation for the Court. But that quote does not appear in her concurring opinion in that case. Also, the case was more complex than that single quote suggests, involving not only a punishment for

rape but punishment for the additional and legally separate crime of inflicting great bodily harm.

To help deal with such problems, Attorney General John Van de Kamp — a Democrat who will also be on the ballot in next year's election — says that he intends to answer unfair attacks on the Court by setting the record straight.

"I've got to run my own campaign, and as attorney general, I've got to present cases to the Court," he explains. But that doesn't mean, he adds, that he must be silent. He already has criticized the Court for what he perceives as the glacial speed with which it has dealt with unresolved key legal issues in the so-called Victim's Bill of Rights adopted by the voters in 1982.

However, the Court on February 1st acted on one of those key issues and in a manner that prosecutors praised. Reversing 30 years of state law, it voted 4-3 to loosen the rules on the use of illegally obtained evidence. Grodin led the majority: Bird, Mosk and Reynoso disagreed.

Lieutenant Governor Leo McCarthy, a Democrat, makes no bones of his determination to support all the justices on the ballot next year. "Although I disagree with some of their decisions," McCarthy says, "I believe it is extremely important to restore stability to the Court. And I'm convinced neither political party should bring rancorous, hardball politics to this race."

Los Angeles Mayor Tom Bradley, who narrowly lost the governor's race in 1982, is running for mayor again this year, possibly as a prelude for another shot at the governor's office next year. He wants no part of the Bird issue. "I'm not going to tell you how I'm going to vote on Rose Bird. I'm not going to get involved in it."

A well-established campaign consultant, asked how he would run a pro-Bird campaign, first asked anonymity because he has clients on both sides of the Bird issue, then offered these thoughts:

"You could attack her attackers as right-wing kooks, but that wouldn't be right because it isn't credible. You don't want to get into a debate on the death penalty or on rapists because you'll find 80 percent of the public has strong views. You can't educate the public on the fine points of the law.

"What you would need is a top-drawer person as a spokesperson for Bird, a person whose word and standing is unchallengeable. You might turn the issues around and portray her as a fighter for John Q. Citizen and her opponents as fronts for the big insurance companies who don't want the little guy to get his day in court. And I certainly would keep her away from the media.

"This would be a very complicated campaign to prepare and run. I think it's winnable. But it will be tough."

One aspect of the campaign that no one likes to talk about is the prospect that some case will be decided and made public just before the election that could tip the results. A couple of Death Row prisoners going to the gas chamber might take some of the onus off the Court. But that could be viewed as yielding to pressure and the public outcry would rock the state. Nevertheless, the timing of Court decisions grows in importance with each passing month. In 1978 there were accusations that Supreme Court decisions were withheld right at election time because of possible impact on the electorate. A follow-up study by the Commission on Judicial Performance concluded nothing really wrong was done, but it painted a picture of a squabbling, philosophically divided Court behind the public facade.

Through it all, Bird runs her course, seemingly impervious to political attacks. Maybe there was a touch of wistfulness — or perhaps resignation to her political fate — that prompted her to tell law students in Fullerton a while back, "It is easy to be popular; it is difficult to be just." 🏛️

California's Day of the Teacher

By GALAL KERNAHAN

It was January 1982. I was in the El Monte district office of state Senator Joseph B. Montoya.

"Why don't we have a 'Day of the Teacher' in California, Joe? They've had one for years in Mexico. A beautiful custom. The Association of Mexican-American Educators (AMAE) is already observing it here and there in the state. God knows that many teachers can do with some appreciation and recognition. Besides . . ."

"O.K., O.K.! So draft a bill. I'll introduce it." The senator chopped me off when I was just halfway to getting wound up. I hate that. I'm a sore winner. "Make sure that it doesn't cost any money or it won't have a chance in this session," he added.

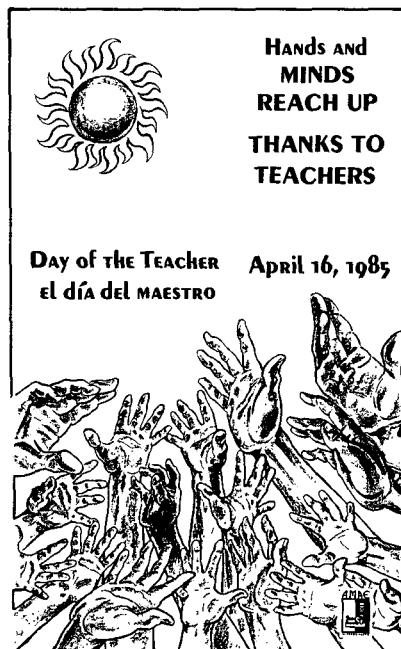
No money. That meant an observance on a regular school day. California has some of those on the books — like Susan Anthony's and Luther Burbank's birthdays. Only they don't get observed. Well, that was to worry about later. I polished the language, both sentences. AMAE enthusiastically agreed to be the sponsoring organization.

The two-sentence draft bloomed into a multi-paragraph bill (SB1546). This began in the Senate Education Committee. Folks there noticed that my mid-May date (in accord with the day observed in Mexico) coincided with the education code deadline for giving final notice of non-reemployment to a tenured teacher.

Oooops.

The solution by amendment was classic. The California "Day of the Teacher" to be celebrated in all public schools would be either/and/or the Tuesday of "Public Schools Week" (traditionally set by school boards); the third Tuesday of April; when the governor proclaimed it; some of the above.

Galal Kernahan of Newport Beach is a member of the Credentials Committee of the state Commission on Teacher Credentialing, U.S. correspondent for Mexico's Tiempo magazine and chair of the 1985 "Day of the Teacher" celebration.



No money

Well, nothing's perfect.

The rest of the wordiness seems to boil down to cross-my-heart-and-hope-to-die this legislation won't cost the state any money and, if it does, punt. Anyway, Senator Montoya took the bill under his wing and guided it through to enactment on September 10, 1982. Now there was a law — EDUCATION CODE 37227.6. But, as we all know, it is one thing to pass a law, and it may be quite another to get anyone to pay attention to it.

In 1983 we set up a public benefit corporation, MAGISTERIO — so non-profit it had no funds at all. We announced that California's First Annual "Day of the Teacher" would be Tuesday, April 19, 1983. No one else had a better idea what the law might mean, so we got away with it.

We elicited gracious greetings to all teachers on the occasion from the governor. I wrote Washington inviting a few kind words from President Reagan and received an elegant staff phone call. The White House person gently pointed out that it was a state observance and that protocol suggested our request be declined. "I fully understand," I said. "Besides, we

have already received presidential greetings." That dead pause was delicious. "Yes, we sent a letter thanking Mexico for setting us a lovely example for this beautiful custom, and President Miguel de la Madrid Hurtado sent us his greetings on our 'Day of the Teacher.'"

"It has been a real pleasure talking with you."

"Likewise."

Activities

AMAE worked hard to promote the initial "Day." So did the California Teachers Association. Westinghouse Beverage Group (7Up) popped for a poster. But many schools never heard of the "Day" in time.

Last year, Governor George Deukmejian proclaimed April 10th as the "Day." More schools throughout the state participated in activities honoring teachers and the teaching profession. Governor Deukmejian, Superintendent of Public Instruction Bill Honig and everyone else reached early agreement that Tuesday, April 16, 1985, would be California's Third Annual "Day of the Teacher." This time, not only will almost all schools participate, but the occasion will be on its way as a major public event in this state.

There will be a gubernatorial proclamation and a host of "resolutions" from various levels of government. AMAE has mounted a campaign to place "public-service announcements" on radio and TV stations. Churches and temples are planning to recognize teacher-members in their congregations. Schools are preparing "homecomings" for their former, now-retired, teachers; some will include former students, now in teacher preparation. The governor has already drafted a letter "to parents," to be reproduced to go home from schools with students later this spring.

And some year — some legislative session — the "Day of the Teacher" law itself will be subject to one of the California Legislature's most hallowed traditions: the clean-up trailer bill. We will pin down the "Day" in statute, and hand the perfected version to California classroom teachers as a tribute. They deserve it.

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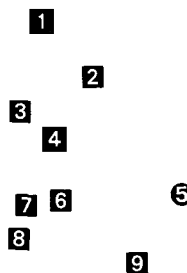
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■ Sierra Inn

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- 2 Clarion Hotel
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- 8 State Capitol
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10

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By DAN WALTERS

There's hardly a bigger topic at the Capitol these days than the case of W. Patrick Moriarty — the Orange County fireworks man. As has been reported extensively in *The Los Angeles Times* and elsewhere, Moriarty and his associates have been accused of trying to influence state and local officials with campaign contributions, prostitutes and lucrative financial deals.

The investigations, both official and journalistic, cut across both partisan and philosophical lines. Liberal Democrats and conservative Republicans have been embarrassed by reports of their contacts. "People around here used to say 'Pat who?' but they don't say that anymore," one legislator said bemusedly. "Now they're saying 'I only met him once.'"

This was the situation in mid-February as the first of what could be a series of trials was about to begin.

- Moriarty, head of the Red Devil fireworks manufacturing company and dozens of other enterprises, was indicted last November — along with a flock of officials from the City of Commerce in Los Angeles County — for allegedly plotting to fix the award of a cardroom license. They were charged with complicity to funnel the city's sole cardroom license to an organization headed by Las Vegas gambling figure Frank J. Sansone. In return, according to authorities, the city officials received hidden interests in the cardroom. Moriarty is accused of putting the deal together. The city officials pleaded guilty and agreed to testify against Moriarty and Sansone who have pleaded innocent. Trial was scheduled to begin February 26th.

- *The Los Angeles Times*, largely in accounts by reporters Tracy Wood and George Frank, has quoted former Moriarty associates as saying that Moriarty funneled campaign contributions illegally to state and local government officials, that he supplied prostitutes for some of them and that he entered into business dealings with others who were supporting legislation he wanted.

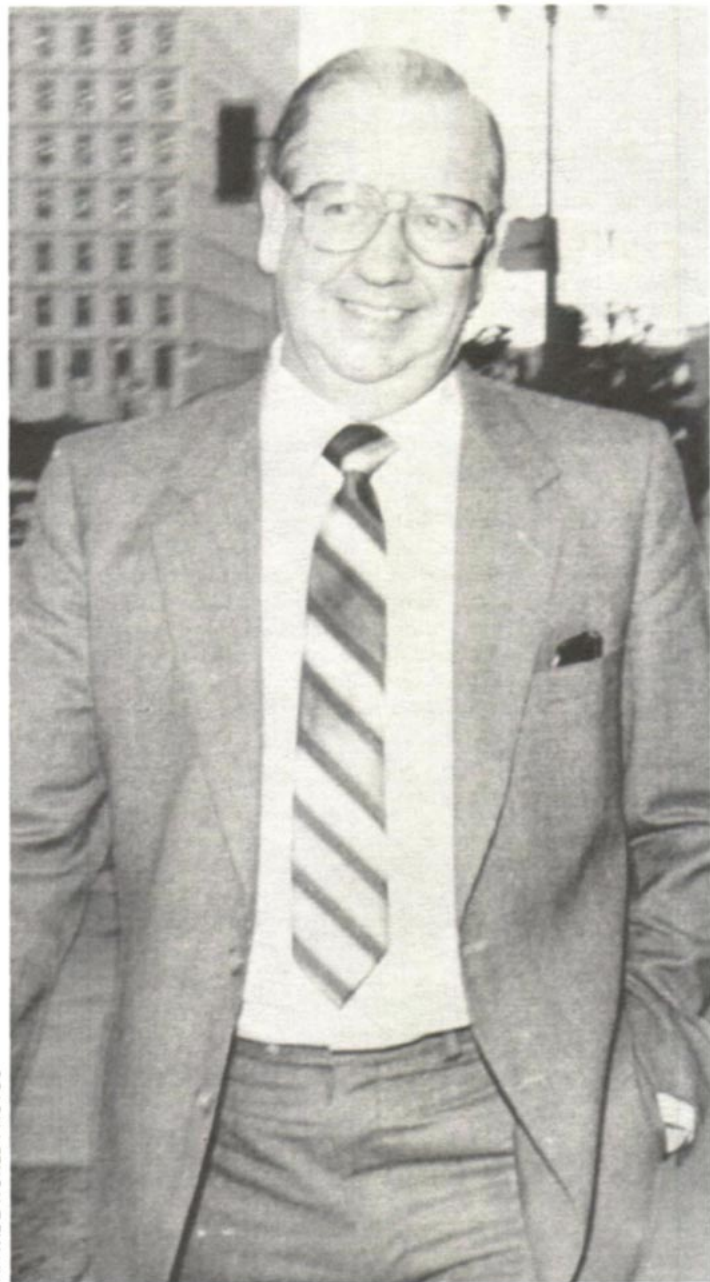
In a story on January 20th *The Times* said that 32 officeholders and candidates received \$153,000 in laundered campaign contributions from Moriarty, with the associates serving as go-betweens. In many cases, the associates said, the recipients knew that the money came from Moriarty. However, *The Times* reported, all those named denied knowing that Moriarty was involved. Also, Moriarty, through his attorney, denied any knowledge of the alleged laundering scheme. Among those who reportedly received the funds were Governor George Deukmejian, Lieutenant Governor Leo McCarthy, an array of state lawmakers and a few local politicians, including Los Angeles City Councilman David Cunningham.

According to *The Times*, most of the money was handed out in 1981 and 1982 when Moriarty was sponsoring a bill in the Legislature that would have prevented California cities from banning the sale of so-called "safe-and-sane" fireworks. This is the type made by Moriarty's Anaheim firm. Despite objections from local government, the bill zipped from the Legislature during the closing hours of the 1982 session. However after an ensuing uproar, it was vetoed by then-Governor Jerry Brown.

Keith's allegations

In a story January 21st *The Times* — again quoting Moriarty associates — said Moriarty had provided prostitutes for state and local officials to gain political clout. Those named were former Democratic Assemblyman Bruce

Dan Walters writes a political column for The Sacramento Bee.



THE MORIARTY AFFAIR

Developments make state and local officials jittery

Young of Norwalk, Assembly Democratic leader Mike Roos of Los Angeles, Democratic Assemblyman Richard Robinson of Santa Ana, Los Angeles Councilman Cunningham and Orange County Supervisor Ralph Clark.

The accusations came primarily from Richard Raymond Keith, a former Moriarty associate who is under indictment for tax evasion and bankruptcy fraud. Moriarty, again through his attorney, denied the allegations and accused Keith of trying to help his own case. Robinson and Young also denied Keith's assertions while Roos refused to comment to *The Times*. Cunningham termed the allegations "ridiculous," and Clark denied having relations with prostitutes.

According to *The Times* account, there were frequent sex parties at a Beverly Hills penthouse where guests were also treated to a hot and cold buffet and a well-stocked bar. "It was like a New Year's Eve party," Keith was quoted as saying. "If somebody fell in love, fine."

• In earlier stories *The Times* reported that former Assemblyman Young, who retired last year, had extensive business dealings with Moriarty, including payments from Moriarty to a Young-owned consulting firm. Young carried Moriarty's fireworks bill on the Assembly floor. *The Times* also has reported that floor leader Roos, who voted for Moriarty's fireworks bill, had extensive dealings with the fireworks-maker. These included low-interest loans to members of Roos' family that were arranged by Moriarty

through the California Canadian bank.

• Jonas T. Gislason, an executive of California Canadian Bank, said in an affidavit to Orange County investigators that he had received prostitution services, as had other banking officials, in return for arranging loans to Moriarty-controlled businesses. Republican State Senator H. L. Richardson of Glendora has said that Moriarty approached him about quashing the investigations but that he reported the conversation to the Orange County district attorney's office.

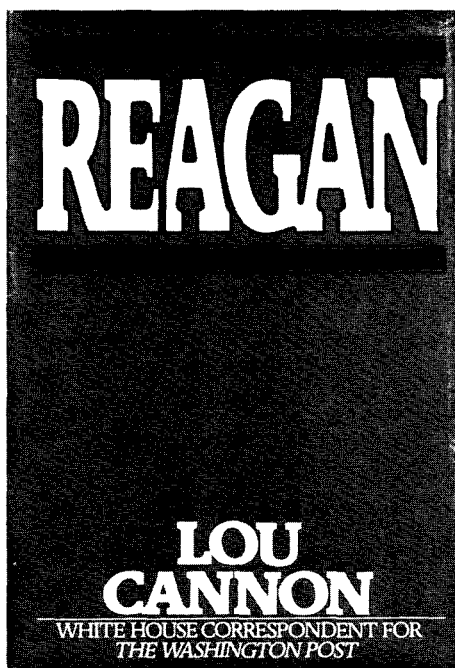
"He (Moriarty) talked about parties and how hookers would show up and legislators were there," Richardson told an interviewer. "He talked like it was no big deal for hookers to show up. I thought it was a very big deal." Moriarty has declined to comment.

Boatwright

• *The San Jose Mercury-News* and the *Leshner News-papers* in Contra Costa County have carried lengthy accounts of complicated dealings between state Democratic Senator Daniel Boatwright of Concord and another Moriarty-connected firm. Both reported that Boatwright was paid more than \$14,000 to help a company secure a landfill contract in San Bernardino County. The company, R.E. Wolfe Enterprises, is headed by a long-time Moriarty business associate. At the time Wolfe hired Boatwright, Moriarty was a half-owner of the firm. Boatwright said he was

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Cannon, who is the former Washington correspondent for *California Journal*, has also authored *Reporting: An Inside View* and *Ronnie & Jesse: A Political Odyssey*.

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Investigation of fireworks king ignites fears in Capitol

By Ricardo Pirtzel
Sacramento Staff Writer

Fires on fireworks legislation, are concerned about the direction of the light-tipped grand jury investigators in Orange and Los Angeles counties.

manufacturer of fireworks in the nation and parent company of Red Devil Fireworks is behind the scenes attempt to drum up support for fireworks legislation, Moriarty has made friends in the industry.

an investigation into allegations that Moriarty supplied prostitutes to state legislators. Richardson said Thursday that Moriarty said him in a dinner conversation in San Diego earlier this year that prostitutes and state legislators got together at

The Register

Tuesday, July 24, 1984

Metro

Fireworks Maker Sought to Halt Probe, Senator Says

By GEORGE FRANK and TRACY WOOD, Times Staff Writers

Moriarty's favor sparks investigation

Former Aides Say Moriarty Laundered Political Gifts

By GEORGE FRANK and TRACY WOOD, Times Staff Writers

Fireworks manufacturer W. Patrick Moriarty secretly funneled more than \$152,000 in campaign contributions to dozens of California political figures, according to former Moriarty associates who said that they were used as go-betweens in the illegal laundering scheme.

The former Moriarty operatives told The Times that 32 California officeholders and candidates re-

Probe of 'rap sheet' triggers inquiry into his business, political affairs

By Jeff Wolf
and Chuck Cook
The Register

By his own account, all W. Patrick Moriarty did was ask somebody for a favor.

criminal arrests or convictions of millionaire cable contractor Joe Parks of Corona — were anonymously circulated this past year as Parks fought for the lucrative underground cable construction contract in Santa Ana.

Parks' chief rival was Rodney A. Caldwell of RAC Construction Inc. Caldwell said the contracts was sup-

Fireworks Maker Accused of Providing Prostitutes

By GEORGE FRANK, Times Staff Writer

unaware of that connection.

Boatwright said the deal with Wolfe was a simple lawyer-client relationship aimed at persuading local officials to give Wolfe the contract, which was awarded in December, 1983, after a long and bitter political battle. Boatwright also has denied that the matter had any connection to his vote for the fireworks bill.

Although Boatwright described Wolfe as "honest, down to earth," the San Bernardino County Grand Jury later reported that Wolfe's bid would cost the county \$5 million more than a rival proposal and concluded that Wolfe "was unduly involved in pre-market and lobbying activities . . ."

The Mercury-News took the story further on February 5th by reporting that Boatwright also contacted an official in the state Department of Health Services on behalf of the Wolfe firm. At the time, the firm was seeking another waste-removal contract — a \$1.26 million project in Los Angeles that needed health-department approval.

The paper quoted Joel Moskowitz, the department's toxic-cleanup chief, as saying that Boatwright called him to complain about the alleged anti-Wolfe bias of a state engineer involved with the contract award. During their conversation, Moskowitz said, he (Moskowitz) agreed to meet with the Wolfe lobbyist to discuss the matter. It is illegal for a legislator to represent a client in dealings with state agencies and Boatwright has denied doing that. He said that he did not ask Moskowitz to help Wolfe but was simply advising him of the engineer's behavior. The engineer was subsequently removed from the project and the Wolfe firm received the award.

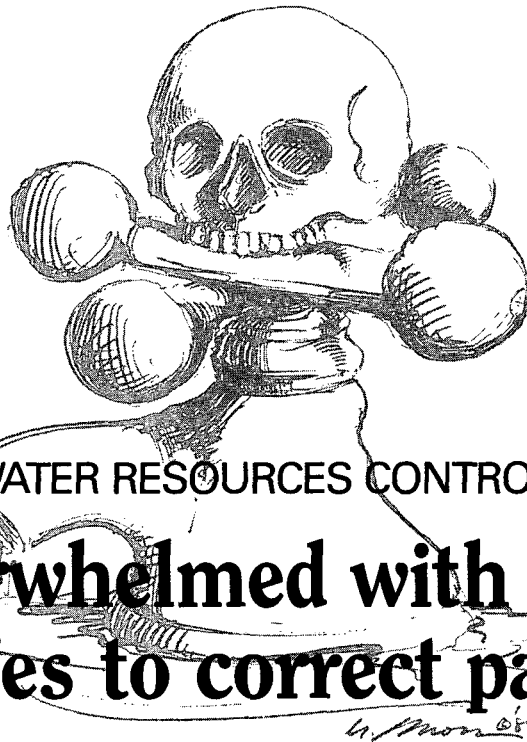
The paper also reported that the FBI interviewed Boat-

wright about his use of a Moriarty-owned condominium in Hawaii in 1982 and that Boatwright produced a cancelled check to Moriarty, dated December 28, 1982, for \$900 to cover the rental. That was eight months after Boatwright's Hawaiian vacation. Boatwright said he had to wait for Moriarty to send him a bill.

• The Orange County Register reported last July that Moriarty played a key role in a local fight over cable television. According to The Register, former State Fire Marshall Albert Hole, now a Moriarty employee, obtained a police "rap sheet" on cable television bidder Joe Parks through Hole's son, a Los Alamitos policeman, and the rap sheet was used to hurt Parks in a rivalry with RAC Construction over a Santa Ana cable contract. Six weeks before the rap sheet was ordered, Moriarty had obtained \$850,000 from RAC's owner, Rodney Caldwell, who had borrowed the money from California Canadian Bank. Keith, the former Moriarty associate, said he was paid more than \$35,000 to help RAC obtain the cable contract.

When Parks complained to the Orange County district attorney's office about the distribution of the rap sheet, it touched off the investigation that led to the City of Commerce affairs and the other matters. Later, Orange County authorities relinquished control of the case to the U.S. attorney and the federal grand jury in Los Angeles, which returned the City of Commerce indictments.

Meanwhile, back at the Legislature, the chairman of the rarely-convened Ethics Committee, Republican Assemblyman William Lancaster of Covina, said he won't do anything concerning the allegations of influence peddling unless someone submits a formal complaint.



THE WATER RESOURCES CONTROL BOARD

Overwhelmed with work, it struggles to correct past failures

By MARY ELLEN LEARY

As public anxiety grows with each new report of toxic chemicals, pesticides and other poisons seeping into California's water supply, more and more attention centers on the state board that was created 15 years ago to see that such things don't happen. It's the state Water Resources Control Board, a panel of five gubernatorial appointees who oversee a staff of 700 and an operational budget this year of \$45.4 million.

At the moment, public interest centers on reports of toxic chemicals that are poisoning the state's underground aquifers, those natural reservoirs lying anywhere from 20 to 1000 feet below surface that supply about half the state's water needs. The most notorious of current problems involves the Kesterson Wildlife Refuge in western Merced County where large volumes of poisonous run-offs from irrigated farm lands are being allowed to seep into the earth.

The Board was created by the Porter-Cologne Act of 1969 and has two primary responsibilities. The first is to assure that water diverted from California rivers and streams is put to a beneficial use. The second — the one of major interest today — is to prevent water pollution. Specifically, the Board is "to attain the highest water quality reasonable . . . for use and en-

joyment by the people of the state."

Thus the Board is empowered to set statewide standards for the discharge of dangerous materials into state waterways and aquifers. The act also created nine regional boards, organized around the state's major water basins, to carry out the rest of the anti-pollution function. The regional boards set local discharge standards (within the state limits), issue discharge permits and handle enforcement.

Those who object to a regional board decision — believing it to be too strict or not strict enough — may appeal to the state Board. And finally, if the state Board believes that a regional board is not dealing adequately with some local pollution problem, the state may take jurisdiction itself.

Throughout the 1970s the system worked well to control what might be called the traditional pollutants — that is, outflows into surface waters from sewage treatment plants, industrial sites and the like. The Board's problems have come more recently from the less visible — even invisible — poisons that drain into underground aquifers. These include leaks from underground chemical storage tanks, leaks from hazardous-waste dump sites and the sometimes poisonous flows from irrigated farmlands.

Over the past five years there have been no less than seven reports from various oversight agencies describing major shortcomings within the state and regional board system, and nearly all were concerned with Board handling of these less-visible toxic

pollutants.

Last April, for example, the auditor general issued a report headed, "California Should Do More to Reduce and Prevent Contamination of Water Supplies." Among other things, the report noted that various shortcomings first exposed in 1979 continued to exist, that the regional boards themselves estimated that 50 percent of their discharge requirements were out-of-date and that there was little evidence to assure that discharge violations at the local level were being corrected. In all, the report concluded, "The need for a consistent and effective regulatory program is evidenced by the continuing reports of water contamination throughout the state."

In its annual budget review last year, the legislative analyst's office found, in effect, that regional boards were not insuring the safety and quality of state waters, that the state Board was not adequately reviewing what the regional boards were doing and that the Legislature was not getting enough information about what was going on.

Also in a report last year, the state's Little Hoover Commission lamented that California, one of the first states to recognize the dangers of indiscriminate dumpings of hazardous wastes, had lapsed into "years of failure in regulating the disposal of hazardous wastes and the cleaning of toxic dumps."

Although many reasons have been offered to explain the Board's failures, several appear to be uppermost. Often heard is the contention that the Board

Mary Ellen Leary is California correspondent for The Economist and a veteran political writer.

MEMBERS OF THE BOARD

Five persons, intended to fit specific requirements set out in the law, constitute the state Water Resources Control Board. They are appointed by the governor for four-year terms, serve full-time and draw annual salaries of \$59,700. They differ from members of regional water-quality control boards who, although appointed by the governor, serve only part-time. Frequent turnover of late on the state Board has left several current members serving out unfinished terms, so that today's Board includes no member with more than two-and-a-half years' experience. Two hold terms which ended January 15th, though they may be left in their positions until March 15th. Two more, named last year, have not yet received Senate confirmation.



Five years' active service on the California Transportation Commission gave **Carole A. Onorato** what she terms "a statewide perspective." The chair of the Water Resources Control Board, an Auburn resident and the mother of five grown children, absorbed a taste for public service from her father, William A. Newsom, an appellate judge and an early booster of former Governor Edmund G. (Pat) Brown. Environmentalists generally credit her with moving the Board toward a stronger protection of state waters. Slim, chic and loquacious, expressive in gesture and in speech, she favors reasonable accommodation rather than confrontation. Appointed by Governor Jerry Brown in late 1982 to represent the public at large, her term expired January 15th.



Filling the state Board slot as an engineer is **Warren D. Noteware**. A resident of Stockton, he earned an engineering degree at Stanford University after Pacific duty with the Navy during World War II. A former city engineer for Rio Vista, he founded his own engineering firm in Manteca. He has a strong concern for Delta water quality since as a young man he farmed on Brannan Island with his father. To Noteware, open meetings and the mandate to hear all protests from the regions are a healthy aspect of regulation. "It's practical to hear industry's problems when we undertake strict regulations. We want to keep business going while we get pollution cleaned up." Named by Governor Jerry Brown in late 1982, Noteware's term ended January 15th but he is not yet replaced.



Kenneth W. Willis, by profession an urban planner, has considerable water-management experience and the advantage of having served three years on the Santa Ana regional water-quality control board. Regional boards, he says, "have the harder mission" since they are on the enforcement firing-line. A resident of Upland, he worries that industry and agriculture will seek to undercut the state Board politically. "I'm afraid the state Chamber of Commerce and the agriculture-business world would like the state Board to disappear. I fear the Porter-Cologne law is up against serious threats." He was named by Governor Jerry Brown to an unexpired term which began in January 1983 and ends in January 1986.



Newest member on the Board is **Edwin (Ted) Finster** from Corona Del Mar, appointed last August by Governor Deukmejian. He was sanitary engineer for San Diego County, worked later for Orange County and subsequently for a private engineering firm before retiring in 1981. Although Southern California pollution troubles are a prime interest, Finster says now that "toxics are on everybody's mind." He is especially supportive of the Board's appeal role. Politically conservative, he favors reducing government as much as possible but recognizes that water quality requires increased staff for enforcement. "When you meet a problem as serious as water contamination in this state, you've got to deal with it," he says. His term runs until 1988, but he has yet to be confirmed by the Senate.



The second Deukmejian appointee is **Darlene E. Ruiz**, who fills the requirement for an attorney knowledgeable about land and water law — experience she obtained while on the attorney general's staff in Los Angeles. She considers water quality likely to be as important to the general public through the rest of the 1980s as oil was during the 1970s. The Board's most controversial appointment, she came under attack by environmentalists because she had once been a lawyer for Mobil Oil and for the conservative Pacific Legal Foundation. Ruiz countered that as a lawyer she accepts the cause of a client, "and the state is now my client. I consider water quality the most important environmental issue for every Californian." Not yet confirmed by the Senate, her term runs until 1987.

has been seriously underfunded in recent years. Budget tightenings during the latter years of Governor Jerry Brown's administration and during the first year of Governor George Deukmejian's were so crippling that even with recent increases, Board members contend, the Board is scarcely back to 1977 personnel levels (see box).

(In its report last year, the Little

Hoover Commission noted that the 1983-84 budget provided more staff to the state Board of Cosmetology, which regulates hairdressers and manicurists, than it did for hazardous-waste clean-up personnel in both the Department of Health Services and the nine regional boards.)

New laws

But the return to 1977 staffing lev-

els is far less encouraging than it may seem, for the Board's workload has increased enormously since then, particularly because of three new statutes authored by Democratic assemblymen last year.

The first, by Dominic Cortese of Santa Clara, requires owners of underground tanks to register their tanks with the Board. Estimates are that the Board will have to process and

THE BOARD AND THE BUDGET								(Proposed)
	1978-79	1979-80	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86
Authorized number of positions								
State Board	511.6	447.8	442.7	462.2	425.7	413.8	429.6	430
Regional Boards	280.8	267.2	278.4	299.3	296.2	277.9	327.8	383
Total	792.4	715	721.1	761.5	721.9	691.7	757.4	813
Budget for State Operations (millions)	\$27.9	\$29.1	\$31	\$35.4	\$33.9	\$37	\$45.4	\$51.1

(source: Water Resources Control Board)

check information for about 160,000 tanks and send necessary information to cities and counties for enforcement.

The second, by Byron Sher of Palo Alto, requires the Board to set rules for underground tanks, determining the kinds of leak-detection devices each must have, establishing construction standards and otherwise establishing requirements for leak-proof operations.

The third, by Richard Katz of Los Angeles, requires action on open toxic pits, ponds and lagoons. The regional boards must review some 300 sites, containing 600 to 900 pits, to see that they are double-lined and otherwise meet safety standards. Those within a half-mile of a drinking-water supply must be closed.

Additionally, on its own, the water Board has tightened its standards for hazardous-waste sites and is undertaking a re-evaluation of an estimated 1500 in California.

Another problem lies with the overlapping nature of California's toxic-control law. Although the Board retains basic legal authority to control toxic discharges, it lost some clout during two important turf wars in the early 1980s. As a result, the Department of Health Services became the lead agency for controlling hazardous-waste sites and recruited much of the Board's experienced staff. Also, in a fight with the Department of Food and Agriculture and its allies in the Legislature, the Board lost a major role in controlling pesticide use on California farm land.

A dismal record

Thus in 1983 the U.S. General Accounting Office said California had "the worst record" for dealing with toxic pits, having inspected only 18 percent of all the hazardous-waste facilities in the state. A report from the

Assembly Office of Research notes: "According to GAO, the reason for this poor inspection record was confusion over which agency was responsible for conducting inspections. The DHS had conducted only a few because they claimed the state Water Resources Control Board had jurisdiction . . . The Board refused to conduct the inspections until the DHS prepared an interagency agreement with the Board and funded the inspection program."

And always, of course, there is the opposition from the agricultural and industrial interests that see themselves being hurt by tough rules against pollution. Carla Bard, a Board chair under Governor Jerry Brown, drew opposition from them because of her environmental emphasis. As a result, Brown's support for her faded and he declined to submit her name to the state Senate for confirmation to a second four-year term.

What's to be done? Deukmejian has made toxic cleanup a major part of his 1985 program and is specifically proposing to create a new department of Waste Management to put some of the conflicting bureaucracies under one roof. Assembly Speaker Willie Brown earlier made a similar proposal. At the moment, neither the administration nor the speaker's office has announced specific plans or said how those plans would affect the Board. However, regardless of their proposals, nothing will be final until everyone involved has had a say.

Meanwhile, the Board itself may be showing a new determination to act more rigorously and take command. Friends of the Board see a new, more aggressive attitude in the Board's handling of toxic pollution at Kesterson. As has been widely publicized, Kesterson is receiving poisonous drain water from the vast irrigated

farmlands on the western side of the San Joaquin Valley and the water is seeping out of the refuge ponds and into the ground below.

In the Kesterson case, the Board is hearing an appeal from a land owner who contends that the regional board had not acted forcefully enough to combat the Kesterson pollution. Normally, if the state Board upholds an appeal, it will merely refer the issue back to the regional board with instructions for changes at the local level.

But in this case, the state Board decided to take on the issue itself, conducting fact-finding hearings and on February 5th handing a clean-up order directly to the U.S. Bureau of Reclamation, the agency that runs the Kesterson refuge under a permit from the state.

And there are indications that some Board members, at least, hope to continue the activist style. Says the Board's newest member, attorney Darlene E. Ruiz, a Deukmejian appointee, "I feel we will find more and more issues on which the state Board will take original jurisdiction. I hope we are changing. I think we should move to be more pro-active rather than re-active."

There's another subtle shift on the Board as well. Members appear to be more willing than ever to ride herd on the regional boards, setting new requirements for record keeping and frequency of inspections. Board chair Carole A. Onorato puts it this way: "Given the intense scrutiny the law invites to this Board, it is incumbent on us to prioritize our activities and get some harmony in our approach to statewide enforcement."

In short, although the Board isn't where it or its critics might wish it to be, there are signs of light at the end of the tunnel.

Change the policy that lets a dangerous prisoner go free

Editor's note: Evan McKenzie, a deputy district attorney in San Diego County, and attorney Robert Roos, vice chairman of the State Board of Prison Terms, say that the pending release of convicted killer Theodore Strelski shows the need for a change in California's prison-sentencing laws. In the following article, they describe the current situation and propose their change.

By EVAN MCKENZIE
and ROBERT ROOS

Theodore Strelski will walk out of prison a free man sometime this year, by September 8th at the latest. That is a prospect that sends terror through the Stanford University academic community — and also is helping fuel a new round of controversy over California's prison-sentencing policy.

Strelski was convicted of second-degree murder after bludgeoning Stanford mathematics professor Karel deLeeuw to death with a hammer in 1978, and he was originally scheduled for release on parole last March. But Strelski, an engineer who spent 19 years unsuccessfully trying to obtain a doctorate in math, remains steadfastly unrepentant for the crime. He insists it was a "rational" act — in part a protest against Stanford's treatment of graduate students — and has refused to sign a parole agreement to stay away from the university. His refusal to abide by parole restrictions has won him two six-month periods of incarceration from the Board of Prison Terms (parole board), the latest of which will end March 8th. By law, however, the Board can impose only one more such stretch behind bars for violation of parole, and then he will be released automatically.

Strelski's is one of the series of cases that, over the last couple of years, have touched off growing requests for a re-evaluation of the way California imposes prison sentences.



For most crimes (90 percent), convicted felons are given specific sentences, and from the moment they walk into the "joint," they can almost mark the calendar with their release dates. The ability of authorities to hold them beyond those dates is severely limited, even in many cases where they appear to pose obvious threats to their former victims or other members of society. This has produced a rising chorus of demands for changes ranging from tinkering with the sentences for specific crimes to a revision in the whole concept of determinate sentencing.

The proposals are not without their critics, however. Many defense attorneys, civil libertarians and others say the demand for reforms is an over-reaction to a few sensational, politically-charged cases, most of which could not occur under recent changes in the law. They note that Strelski's

crime of second-degree murder, for example, has now been placed in the category of offenses which carry life sentences. Anyone committing the same crime today could be held in prison as long as the Board feels he or she is a threat to society.

But that is small comfort to actress Teresa Saldana and the millions of television viewers who saw a film last year starring Saldana in the real-life story of a near-fatal knife attack on her by Arthur R. Jackson, a twice-deported Scottish native who said he wanted to kill her and join her in heaven. Saldana says he continues to write similar threats from prison. He will be released in 1988.

Such cases were less likely in California for most of this century. From 1917 until 1977, California courts handed out what were known as indeterminate sentences. A judge would simply sentence a convicted

felon to prison "for the term prescribed by law." This was a lengthy period established by the Legislature for each crime. "Five years to life" was typical. The prisoner was required to serve at least one-third of the minimum term, 20 months in the case of burglary, after which he became eligible for parole. The decision on when to release him then fell to the state Board. A burglar could be released after serving 20 months, or he could legally be confined much longer, theoretically for life if he were never

found suitable for parole. The Board's job was to review the criminal records, current conviction offense, in-prison behavior and prospects for future criminal behavior, then decide when a prisoner should be released.

Rewards for good behavior

The indeterminate sentence was designed to reflect the correctional system's primary goal — rehabilitation of the criminal. In theory, it allowed the Board to reward a prisoner who worked hard to change himself by re-

leasing him. It also allowed the Board to hold the unrepentant or troublesome inmate in custody until he "saw the light" and decided to prepare himself for a law-abiding life on the outside.

Over the years, however, the indeterminate sentence came under increasing criticism from both ends of the political spectrum. Liberals contended it was inhumane to sentence someone to prison without letting him know when he would be released and that too much discretion rested with the Board, which was often attacked for a lack of uniformity in sentencing. Conservatives criticized the indeterminate sentence as an escape valve for the prison system. Whenever the prisons were overcrowded, the governor or other officials could put pressure on the Board to grant more release dates. They also felt the system had the potential for the premature release of serious offenders, depending on the composition of the Board.

Their hand was strengthened by a few sensational cases, such as that of murderer-rapist William Archie Fain. Convicted of the shotgun murder of a teenager in 1967, Fain initially received a death sentence. But that was overturned, and he subsequently was given a parole date of 1977 — a promise that he could walk out after serving just 10 years. A firestorm of controversy resulted in a revocation of the parole, and he was not released until 1984, which many people felt was still too soon.

Both sides in the controversy shared one criticism of the indeterminate sentence: its fundamental premise in the rehabilitative goal of incarceration. Liberals felt the prison system was unable to provide prisoners the means to rehabilitate themselves. Conservatives doubted the parole Board's ability to determine with any accuracy when a man was fit to return to society.

In this atmosphere, which was further politically charged by the rising crime rate and the law-and-order mood of the mid 1970s, California replaced the indeterminate-sentencing system with a radically different policy in 1977. The new determinate-sentencing law had two major features: sentences were to be specific and they were to be handed down by the courts under guidelines set by the Legislature. There would be no parole board to decide when the prisoner should be released; parole would occur automatically by operation of law.

However, there were exceptions. First-degree murder and other serious crimes that result in a life sentence were left under the inde-

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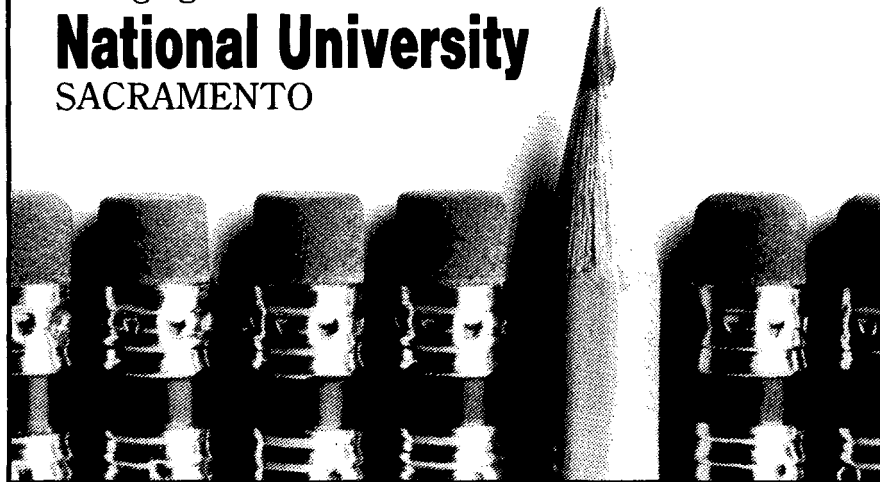
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terminate law. According to David E. Brown, chief counsel to the Board of Prison Terms, this was done because of fears that some who had committed such serious crimes might always be too dangerous for release. But paroles are possible under the indeterminate law, with release dates set by the prison-term Board.

Also, some crimes that were initially in the determinate category have been moved to the indeterminate side since 1977. Brown noted that second-degree murder now carries an indeterminate sentence. As a result, Streleski — who was sentenced under the determinate law — would be sentenced today to an indeterminate term, meaning that he could be held in prison for a much longer period.

Sentences

For prisoners sentenced under the determinate law (90 percent), the Legislature prescribes three possible sentences for each category of crime. A first-degree burglar, for instance, could be sentenced by a judge to two, four or six years. Lawmakers, in effect, told judges to weigh the circumstances in each case and decide which of the three it should be. The law also contains elaborate guidelines to help judges decide whether multiple counts should run concurrently or consecutively to each other. And then there are "enhancements" — additional years that may be added to a sentence for such offenses as using weapons or inflicting injury on victims.

On the other side, prison terms may be reduced. The law provides that if a prisoner makes himself available for full-time work (currently interpreted as 30 hours per week), the term may be reduced by one-half. The result is that nothing but a new conviction, like assaulting another prisoner or a guard, can hold a prisoner beyond his predetermined release date. But new convictions are rare because other prisoners — often the only witnesses — are reluctant to testify for fear of deadly retaliation.

Once released, the determinately-sentenced prisoner must serve at least one year on parole. If parole is violated, as in Streleski's case, the parolee may be returned to prison, but only for a short, specific period. Once he has served this additional time, he must be released again.

The determinate-sentencing law, in theory, met many of the concerns of both liberals and conservatives. Prison terms are based on the offense and not on the offender. It fits with the stated goal of state correctional policy: punishment, not rehabilitation.

And it ostensibly results in uniformity, with the same sentences being meted out for identical crimes.

But after more than seven years' experience with the new system, many believe that some serious flaws are beginning to show. One major criticism is that the removal of discretionary parole dates eliminates a carrot-and-stick incentive for good behavior. Indeed, violence on the part of inmates has become a serious problem in California prisons in recent years, presently up fourfold since 1977. With the advent of prison gangs, over-crowding and a tougher class of prisoner, officials live in fear of attacks and riots.

Perhaps the most serious problem, however, is the absence of any way to extend the terms of prisoners who — because of threats or acts of violence — show that they still belong in prison, even though their pre-determined terms have expired. The present law lacks any procedure for individual review of special cases based upon in-prison behavior.

Growing pressure to change

Thus as the current legislative session opened, there was growing pressure for changes in the determinate-sentencing law. The pressure actually began last year, culminating in the enactment of a bill (AB 2192 by Republican Assemblyman Pat Nolan of Glendale) that makes it easier to cancel parole in Streleski-type cases and authorizes the parole Board to make "public outcry" a factor in parole decisions. However, the length of the overall sentence could not be changed.

This year, Democratic Senator Dan Boatwright of Concord introduced a bill that would give the governor more power to revoke parole in cases like that of Streleski and Fain. The office of Attorney General John Van de Kamp was drafting a proposal to add "attempted murder" to the list of crimes which carry indeterminate life sentences. Also, Governor Deukmejian proposes new laws to prevent release of violent, mentally-disturbed offenders. That proposal was also being considered for introduction by Democratic Senator Robert Presley of Riverside, chairman of the Legislature's Joint Committee on Prison Construction and Operations.

The most sweeping proposal, drafted by the authors, would allow the Board of Prison Terms to extend determinate sentences for in-prison acts or threats of violence. It would change the penal code to add another purpose for incarceration. In addition to punishment there would be "public protection." Judges would continue to sentence prisoners for fixed terms as

they do now except that release at the end of the term would be contingent on good behavior in prison. In effect, the prisoner would be on probation while in custody.

Under the proposal, term extensions would be limited to two years for each act and could be handed down only after a full due-process hearing in which the prisoner was represented by an attorney.

However, the standard of proof at these hearings would be lower than that necessary to convict the prisoner of another crime. Instead of proving guilt "beyond a reasonable doubt" the Board could extend a prisoner's sentence if a "preponderance of the evidence" showed guilt. This is the standard used in parole revocation hearings and similar actions affecting parolees not only in California but across the nation. Among other things, the standard allows the use of confidential reports and other such materials whose sources need not be disclosed at a hearing.

Thus, if another case like that of actress Saldana were to arise, in which a prisoner was allegedly making threats against a person outside, the Board could conduct a hearing that could lead to an extended term. Also, if a prisoner were accused of an act of violence against another prisoner, his term could be similarly extended by the Board. However, there would be an upper limit on extensions: They could be no longer than the upper limit of the determinate sentence for the original crime.

The proposal also would reduce a prisoner's ability to shorten his term by making himself available for work. Instead of getting one-half off for work totaling 30 hours per week, he would get one-third off for 40 hours.

Presley, the Legislature's specialist in prison-related bills, has agreed to support the term-extension feature of the proposal. Although he opposes major changes in the determinate-sentencing law, he says that problems inherent in the Streleski and Saldana cases warrant consideration.

Marjorie Schwartz of the American Civil Liberties Union calls the proposal "preventive detention of the worst sort." She says it depends on the ability of the parole Board and other agencies to predict behavior of inmates once they are out of prison, which she says has never been proven to be effective. We contend that the proposal is not based on predicting violence but on adding time for serious acts or threats of violence. We believe that the public has a right to demand that prisoners behave in a reasonable manner.





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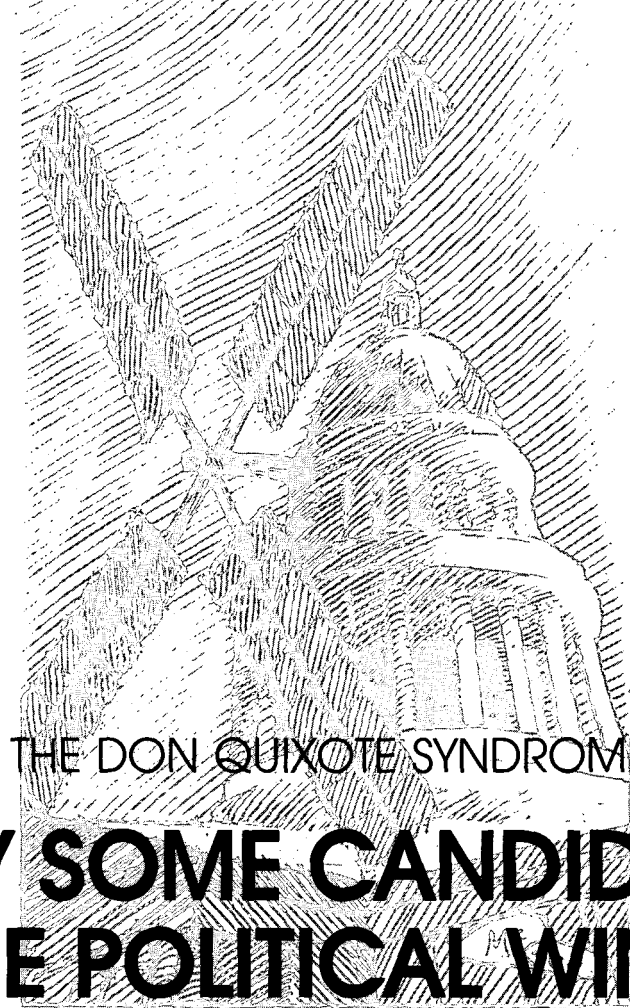
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THE DON QUIXOTE SYNDROME

WHY SOME CANDIDATES TILT THE POLITICAL WINDMILL

By A.G. BLOCK

Why do people run for public office knowing full well that they are going to lose? And why do some of them run not once, but two or three times?

For a sampling of their reasons, the *Journal* randomly interviewed a half-dozen of these political Don Quixotes, each of whom had run for a legislative or congressional seat at least twice and lost.

Jerry Zerg
Republican, 24th Congressional District
Los Angeles

For 57-year-old Jerry Zerg, running for Congress — even against great odds — is just one more way to get involved. According to his resumé, he belongs to 55 community, political, business and social organizations in and around Los Angeles — ranging from the American Institute of Architects to the Boy Scouts. “L.A. is my community,” he says. “It’s my responsibility . . . to be involved and have some impact.”

As a Republican, however, Zerg has a long way to go to make much political impact on a district where the incumbent — Henry Waxman — is a political powerhouse. But Zerg, who has lost twice to Waxman, insists that he’s just warming up. “I know the odds,” he says. “But it takes a certain amount of running just to build a base. It may take three or four challenges, so I’m not through with this.”

Zerg qualifies that optimism because he doesn’t see much chance of winning unless he can raise about \$500,000. The money is needed to buy media time, he says, because an urban underdog doesn’t attract much press. “It was easier (in ’84) to get the score of an eastern hockey game than to read anything about my campaign.”

Jo Smith
Democrat, 42nd Assembly District
Los Angeles County

As a teacher of English to immigrant adults, Jo Smith often discussed government with her students, telling them that the American system worked well because every voter was given a choice. But when voting for the Assembly in 1978, Smith found herself without a choice — there was no Democrat to oppose Republican Richard Mountjoy.

To help ensure that choice, Smith says she became active in Democratic politics and when in 1980 no one stepped forward to challenge Mountjoy, she became a candidate. For Smith, however, “success” didn’t hinge on getting elected. In 1980 she merely wanted to provide a choice. In 1982 she also wanted “to make a significant improvement in the numbers.” She improved, but it was still a drubbing. In 1984 she actually entertained thoughts of winning. She lost, of course, and has now officially “retired” from the campaign circuit. “I don’t regret having done this,” she says. “I met some wonderful people and got a lift from knowing that there are others out there who want good government.”

Donald Hyde
Republican, 56th Assembly District, East Los Angeles

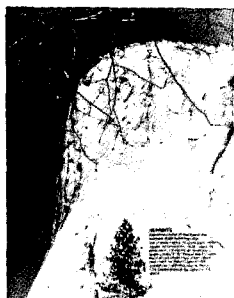
Shortly after Donald Hyde and his family moved to Los Angeles from Indiana in 1969, teenage hoodlums in the Aliso-Pico housing project (where Hyde still lives) slashed the throat of his three-year-old son. The boy survived but Hyde has been crusading for more security and other improvements in the project ever since. To him, politics is

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roster update

Listed below are recent changes and corrections in the **California Journal Roster and Government Guide** published in the February 1985 issue.

Page 5: Resources Agency

George Eowan replaces Sherman Roodzant as executive officer of the California Waste Management Board.

Page 5: State and Consumer Services Agency

Robert F. Roberts has been made permanent chief executive officer of the State Teachers' Retirement System.

Page 6: Department of Industrial Relations

Ron Rinaldi has been made permanent director.

Page 6: Seismic Safety Commission

L. Thomas Tobin has been named executive director replacing interim director Pete Stromberg.

Page 10:

Assemblymember Marian LaFollette's district telephone number is 818-368-3838.

Page 11:

Democratic Assemblymember Lucy Killea of San Diego has been named to the Human Services Committee which now has 5D, 3R.

Page 12:

Democratic Assemblymember Lou Papan of Millbrae and GOP Assemblymember William Lancaster of Covina have been named to the Assembly Transportation Committee which now has 9D, 6R.

Page 19: California's Legislative Process

Under the heading "Action in house of origin — COMMITTEE," the second paragraph should read: "Appropriation bills, if approved by the policy committee, are referred to either Appropriations Committee or Budget and Fiscal Review Committee in the Senate and to Ways and Means Committee in the Assembly."

but a natural extension of that crusade.

Usually, though, low-income crusaders are Democrats. Hyde says his needs are better served by the GOP. "Poor people need stability," he explains. "Stability is a conservative belief, not a liberal belief. The liberals are always wanting to change things, always tinkering with things. (Liberals) never realize that a pebble thrown in the pond in Washington or Sacramento causes a tidal wave down here at this level." Hyde has lost twice now to Assemblywoman Gloria Molina and says he'll be back again in 1986. If nothing else, he notes, "She can't say she had the unanimous support of her district."

Todd Roust

Republican, 9th Senate District, Oakland

Todd Roust wants a seat on the Republican State Central Committee and one way to get there is to be a GOP candidate. Thus he's been taking on — twice now — five-term Democratic incumbent Nicholas Petris. Roust has known each time he would lose. In fact, he says, he wouldn't even accept campaign contributions.

Roust, 38, is no stranger to losing causes. Back in 1978 he took on Elihu Harris in an even more lopsided district (71 percent Democratic). Even as a student at San Francisco State during the 1960s, Roust was a member of a distinct campus minority — the conservative Young Americans for Freedom — whose numbers paled compared with radicals of the day. Now, though, he doesn't know if he'll challenge Petris again. "1988 is too far away," he says.

Daniel Finnigan

Democrat, 39th Senate District, San Diego

Daniel Finnigan, a community college counsellor, wanted a forum to talk about things that he believed in. He wanted to talk about civil rights and about the problems of the elderly. He wanted to talk about the dangers of greed in America. He didn't necessarily want to get himself elected to the California Senate. He just wanted to talk, to reach a wider audience than might gather on a street corner.

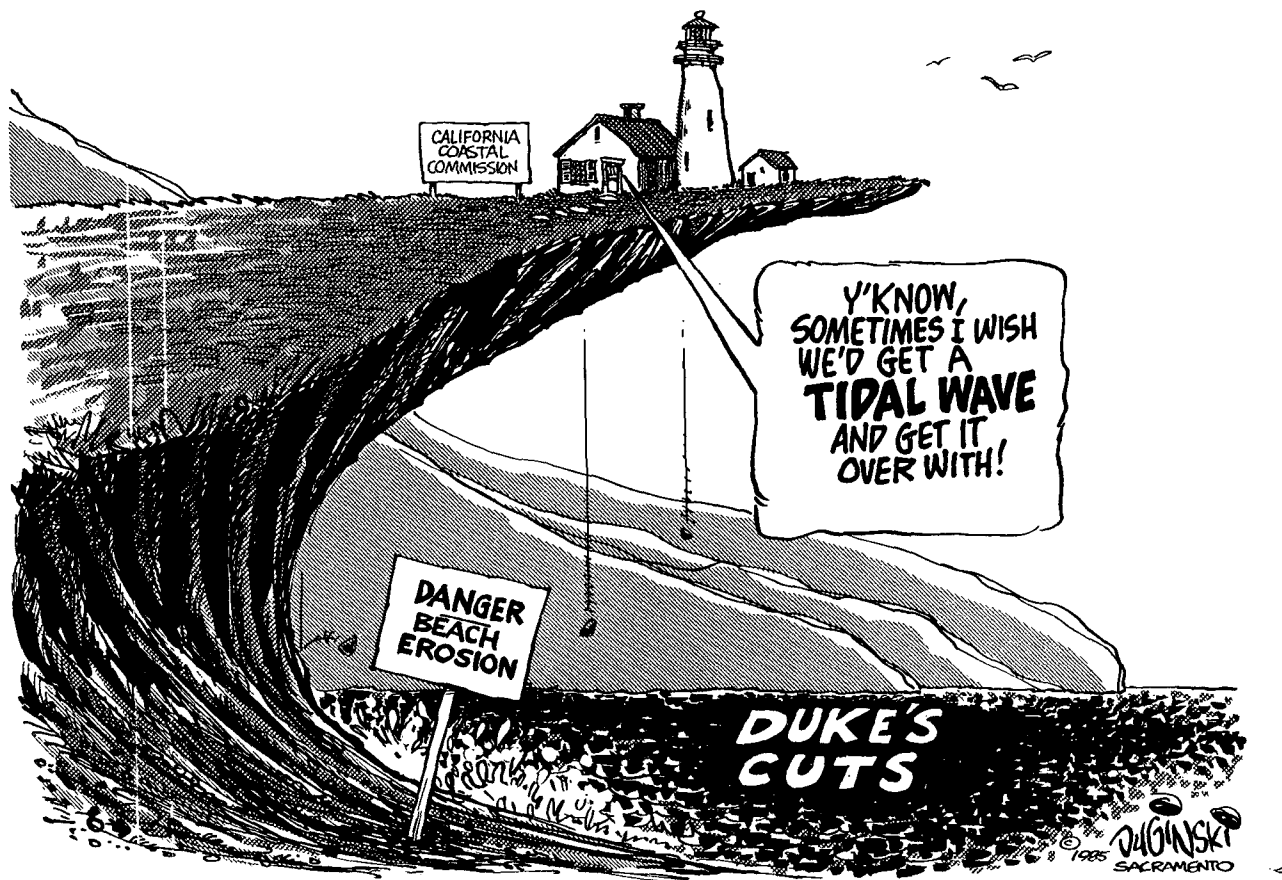
Having tried politics once before (he ran seriously for an Assembly seat in 1972 and lost), he knew that candidacy offered a forum. Thus, this former Catholic priest ran against Republican Jim Ellis in 1980 and again in 1984, suffering a grievous defeat each time. Now, he says, he's decided to give up politics, even to the point perhaps of not working in other campaigns. "After all," he says whimsically, "I've never found another candidate I admire as much as myself."

Wally Mueller

Republican, 53rd Assembly District
Los Angeles County

Wally Mueller runs because he wants to be elected and serve in the Legislature. An optimist, the 45-year-old Mueller insists he can win even though he's in a district where Republicans are a lonely breed. But until he's sworn into office, Mueller must be content with small triumphs, like the fact that he ran far ahead of GOP registration in both 1982 and 1984. Mueller also notes that in 1984 he came within a whisker of capturing opponent Dick Floyd's home town of Lawndale. (Of course, he admits, Floyd walloped him in his own home town of Carson.)

Those are, of course, consolations. He'd really like to knock off Dick Floyd but realizes that without money he doesn't have a prayer. As a result, Mueller tends to be somewhat pragmatic about another challenge to Floyd in 1986. "I'm working on (raising money) now, but it's got to happen before I run," he says.



"DEATH OF A THOUSAND CUTS"

THE GOVERNOR'S CAMPAIGN AGAINST THE CALIFORNIA COASTAL COMMISSION

By STEPHEN GREEN

In dark moments, there are those on the staff of the California Coastal Commission who would like to see Governor George Deukmejian make good on his promise to put the agency out of business. A sudden execution would be less painful, they say, than the "death of a thousand cuts" that the governor seems to be inflicting now.

The Coastal Commission is an agency created in 1972 when voters decreed that coastal development was no longer going to occur at the whim of local politicians. There were to be no more Holiday Inns built atop the beach at Monterey. No more Sea Ranches — a project that locked up 11 miles of the Sonoma County coast. Remaining wetlands, vital breeding grounds for sea life, were to be preserved wherever possible.

Four years later the Legislature approved the Califor-

nia Coastal Act, giving the Commission permanent status. The Commission was to control development along 1100 miles of coastline while local land-use plans were being drawn (under state standards) to guide growth, protect resources and encourage public access to beaches.

Those were difficult goals even in the 1970s when the Commission enjoyed the support of then-Governor Jerry Brown. But in Deukmejian, the commission is up against a governor who has opposed the whole notion of state involvement in coastal protection from the start. Unmoved by arguments that local governments were not protecting the coastline, Deukmejian opposed Proposition 20, the coastal initiative of 1972, and as a state senator voted against the Coastal Act of 1976. Also, as state attorney general from 1978 to 1982, he dismantled his predecessor's fairly strong environmental unit and exiled the attorneys who had successfully defended the Coastal Act before the U.S. Supreme Court.

And, as he campaigned for governor in 1982, the Commission was constantly held up as an example of a state

Stephen Green is a reporter for The Sacramento Bee.

agency that over-regulates and meddles in the affairs of local government. If elected, he declared, he would seek its abolition.

Deukmejian could have effectively eliminated the Commission after he first took office two years ago by refusing to give it any money and then vetoing whatever budget appropriations the Legislature might make. But there'd have been a messy fight with the Legislature's pro-Commission majority, to say nothing of its other defenders.

An aide to Democratic Senator Robert Presley of Riverside notes that the Commission is California's chief

watchdog for offshore oil development. "All those Deukmejian Republicans who live on the beach don't want oil rigs cluttering up their view," he says. In any case, the governor chose not to eliminate all funding and instead began a series of cuts.

Cuts

In the next fiscal year, the governor proposes to cut another 16 positions from the already reduced staff, leaving a total of 113. That's down from 171 in the last budget of Governor Brown. In the same three-year period, the Commission's budget would shrink by \$2.7 million — if Deukmejian's current proposal stands — to \$6.8 million.

Deukmejian proposed that the staff cuts be achieved by closing the Commission's Eureka office and eliminating half the staff in Santa Cruz. The one Commission product that has had universal praise, a slickly illustrated guide to beach access on the coast, would be shifted to another agency.

Bill Yeates is a former Coastal Commission lobbyist who now represents conservation and fisheries groups in Sacramento. The governor's latest cuts, he claims, weren't well thought out. Major land-use plans are coming up for consideration on the North Coast in Mendocino and Humboldt counties. The Mendocino plan may take two years to finish. But with no regional office in Eureka, the work could be impeded. (The Eureka office covers the coastline north of San Francisco, or 40 percent of the coast.)

That will increase frustration of both local government and developers. Cries will mount that the Commission is obstructing growth. And the notion that it's an unnecessary encumbrance to local planning will become a self-fulfilling prophecy.

The intent of the 1976 Coastal Act was to give development authority back to the coast's 67 cities and counties once coastal-use plans were completed and approved. But only about a third of the local plans have made it through the multi-step approval process. That's left the Commission open to charges of overzealousness and deliberate delays in order to perpetuate the bureaucracy.

"The whole thing is dragging anchor," says Gordon Snow who represents Deukmejian on the Commission as a non-voting member from the Resources Agency. The Commission needs to quit picking nits with local plans and get them approved, Snow insists. As for the office shutdown on the North Coast, the work can be finished by circuit-riding staff from San Francisco, Snow says.

A week after the budget was released, Deukmejian showed some pique when questioned about Commission cuts during a news conference. "They have been very, very slow in completing their responsibility under the law, and they have been given a long time to do it. And it just seems to me that they should get on with the job, and they should complete their task . . . it would seem further to me that there would no longer be a necessity for the Coastal Commission," he said.

Local foot-dragging

In a report last year, the state's non-partisan legislative analyst agreed that the Commission could be moving faster. But he found greater evidence of foot-dragging at the local level. Some local leaders haven't wanted to cooperate with a statewide planning effort. They've hoped that exceptions will be granted if they hold out long enough. Still other local governments, the analyst found, saw no reason to speed local plans along. It was much easier to let the Commission take the heat for controversial decisions. In addition, the Commission has been given new jobs that weren't envisioned when the Coastal Act was passed.

Even once the plans are complete, the Commission will

THE COASTAL COMMISSION AT A GLANCE

15 members: — 4 each appointed by the governor, Senate president pro tem and Assembly speaker.

— 3 non-voting members representing the state Resources Agency, Lands Commission, and Business, Transportation and Housing Agency.

Employees: 129

Main office: San Francisco

Regional offices: Eureka, Santa Cruz, Santa Barbara, Long Beach, San Diego

Proposed 1985-86 budget: \$6.8 million

1972: Created on a temporary basis by Proposition 20 as the California Coastal Zone Conservation Commission. The agency regulated all development on the 1100-mile coast while a long-range plan for conservation and development was prepared and completed in 1975.

1976: The Legislature established a permanent agency named the California Coastal Commission to regulate development while 67 local cities and counties drew up their parts of the long-range coastal plan. Six regional commissions were set up until 1981 to help handle the work load.

1977: The Commission was certified as California's agency overseeing federal activities offshore such as leasing of oil tracts.

1981: The 1976 Coastal Act was amended to trim some of the Commission's authority and speed up adoption of local plans.

1985: Local plans were to be finished. Only about one-third are complete and the remainder are in various stages of a multi-step process.

still have work to do. The law requires it to hear appeals from local planning decisions and to consider proposed amendments for local plans. Also, local plans are to be reviewed and updated every five years.

Then there are offshore issues — mainly oil development. The Commission is the main state agency designated under federal law to review projects off the coast. Oil-tract leasing, for example, must be reviewed to determine if harm is likely to befall the state's coastline. With 59 million acres up for possible leasing off California, that's going to take considerable oversight.

Even if Deukmejian does eventually whittle away all the Commission's budget, there's general agreement that something would have to take its place.

Senator John Seymour's Orange County constituency is among the state's most conservative. But in the last session, he readily voted against a bill by Republican Senator H. L. Richardson that would have ended the Commission's say in offshore issues such as oil, mining and port developments.

"You just can't give it away," says Seymour. "There has to be some reasonable observation of what takes place."

In the 1970s, Seymour believes, the Commission was dominated by members with no respect for property rights. But more conservative appointments and narrowing the Commission's functions with budget cuts have changed the focus.

"As far as being the heavy-handed bureaucracy operating in (Jerry) Brown's years, that's gone now," he says.

Yeates agrees that the Commission is both more conservative and less controversial. "You don't see the California Association of Realtors cranking up a big bill and going after the Commission," he notes.

Much of the controversy surrounding the Commission disappeared in 1981 when the Legislature repealed a provision requiring developers to make low-cost housing a part of whatever projects they wanted to build in the coastal zone. Previously, legislative offices were flooded with letters of outrage from prospective developers and coastal property owners.

"I haven't got a single letter now," says Jeff Arthur, a staffer for the Senate Committee on Natural Resources and Wildlife.

Bills are still introduced. Most come from Richardson and are stopped in committee. Others appear to deal with statewide issues but are really aimed at curing the problems of one developer or local government. Most of those don't get very far either.

Another who agrees that the Commission has become more middle-of-the-road is Lois Ewen, a Coronado City councilwoman who heads the League for Coastal Protection. Ewen sat on regional and state commissions (regional commissions have been abolished) from 1974-81 but agrees that she's probably too liberal to get an appointment today.

"Overall, the Commission is doing a fairly good job," Ewen said. "They are more conservative, more careful. There are more compromises but not on the major provisions of the Coastal Act."

Although the League has two lawsuits against the Commission — both over approval of plans that would destroy wetlands — Ewen isn't displeased by the Commission itself. They're cases, she explains, where the Commission lacked the staff to do the planning job right the first time.

In short, perceptions of the Commission have changed considerably over recent years, but nothing has changed the governor.

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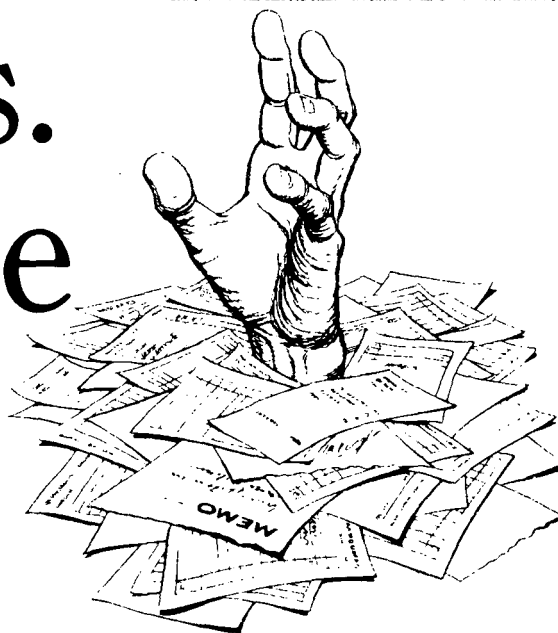
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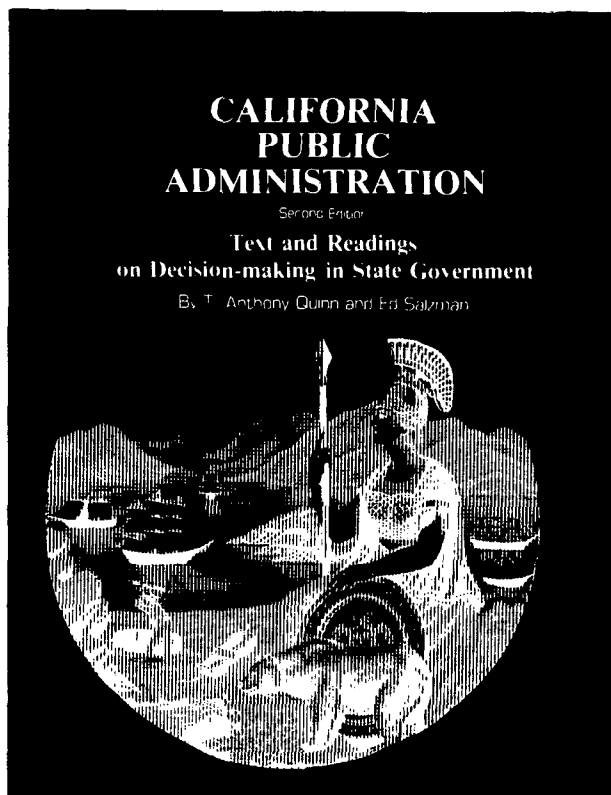
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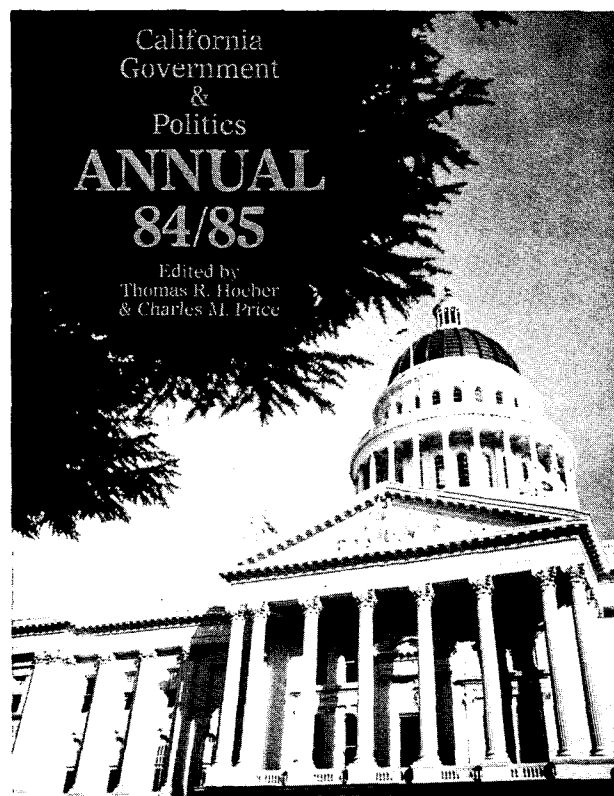
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ELECTRONIC REPRODUCTION PROHIBITED

County leaders seek to find out why

By LARRY PETERSON

Back when Orange County native Richard Nixon was president and his San Clemente abode was known as the "Western White House," it was joked that the county's Democrats could meet in a phone booth. There were about a quarter of a million too-many-registered Democrats around for such cramped space, but the Republicans so strongly dominated local politics that it made little difference.

In the 1970s such jokes went out of vogue as the Democrats became competitive for the first time in three decades. Democratic registration in the county grew to 412,000 — more than in any other county in the state except Los Angeles. More important, Democrats often held their own in local elections.

But now the jokes are back. And Democratic leaders are trying to find out why their party's fortunes in the county have plummeted so low that statewide Democratic candidates may be dragged down to defeat there. Former local party chairman Howard Adler has been dispatched by the county's Democratic executive committee to supervise a study of the party's six-year downhill slide in the county.

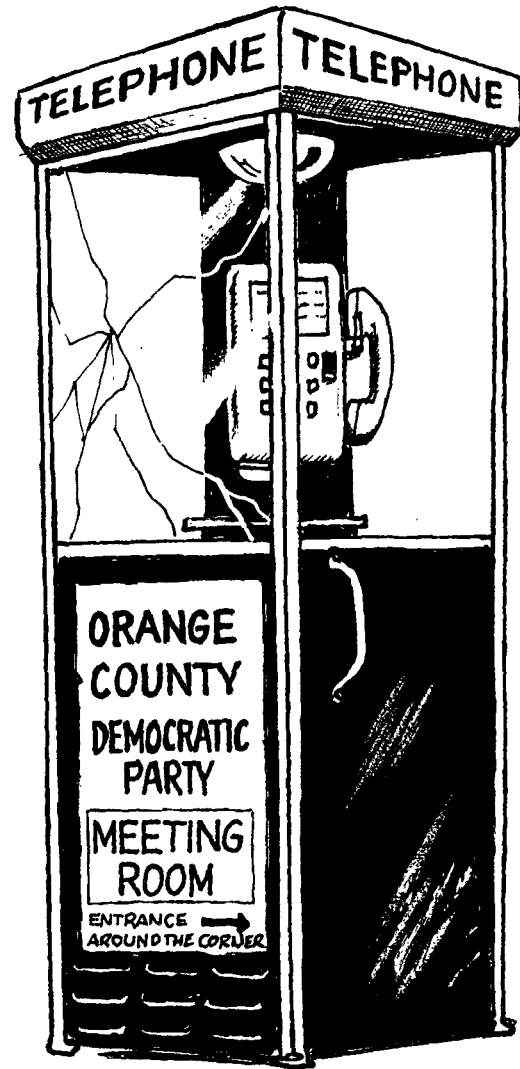
The latest in a series of local disasters for the party came last November when Republican President Ronald Reagan carried the county by more than 400,000 votes and Democratic Congressman Jerry Patterson of Santa Ana, a 10-year incumbent, lost to Republican Robert Dornan.

Democratic Assemblyman Richard Robinson of Santa Ana, one of his party's two remaining state legislators in the county, survived but only by 256 votes. The county's other Democrat, state Senator Paul Carpenter, has a district that spreads into Los Angeles as well. He carried the Orange County part of his district by only 48 votes. Currently, Robinson and Carpenter are the only Democrats among 18 state and federal legislators representing the county. And the Republicans have amassed a voter-registration lead of more than 157,000.

"We've basically been wiped out," says Adler, a political consultant who has been involved in county political wars for two decades. "There really isn't any Democratic Party in the county any more except for a couple of hundred activists. No Democratic candidate will be able to carry this state unless we turn this thing around. If we can't, this county will become the graveyard of all Democratic hopes for statewide races."

No budget has been established for the study, and the party has virtually no funds to pay for the large-scale effort envisioned by Adler, which would include polls, in-depth interviews and statistical analyses. But, convinced that Democratic organizations all over California have a stake in reversing the party's local setbacks, Adler says he will launch a statewide campaign to raise "whatever it takes to do the job right."

Larry Peterson is a political reporter for the Orange County Register and a frequent contributor to the Journal.



State Democratic officials take the plight of their Orange County brethren seriously. "Orange County is one of our worst problems in the state and, for that matter, the nation," says last year's state party chairman, Peter Kelly. "It could make it very difficult for Democratic presidential candidates to carry California." Kelly predicted that the party would help pay for the study. In a county where the Republicans historically have been so strong, says Orange County Democratic Chairman Bruce Sumner, it may be unrealistic to expect Democrats to win regularly. "But the very least we should be able to do is keep down the number of Democrats that cross over to the Republicans," he adds. In 1984, he estimates, about half of the county's registered Democrats cast their ballots for Reagan.

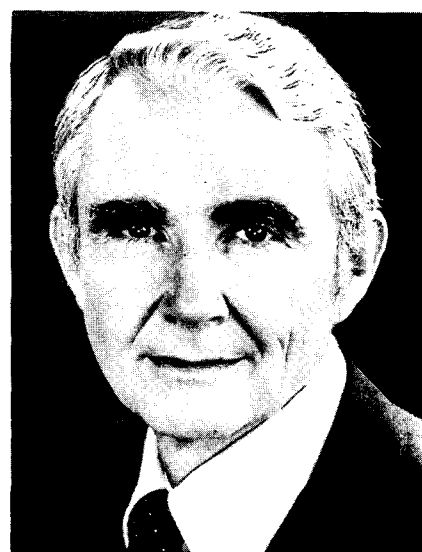
Obviously, the problems that Democrats are having in Orange County — with its light industrial, high-tech and



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SUMNER

suburban make-up — are not much different from similar problems in similar areas around the state. As a result, a study in Orange County — where the problems are just bigger and more concentrated — may be of great use elsewhere.

Which is not to say that nobody has any thoughts on the matter right now. According to the third annual poll taken by UC-Irvine late last year, both major parties may be out of step with county residents. For example, residents apparently like the pro-military, anti-tax positions taken by most local Republican leaders, but not their opposition to

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the Equal Rights Amendment and abortion. And Democrats are well attuned to the local public on the latter issues, but not on the former.

Kelly, Sumner and others see a ray of hope in the survey results. The party that can accurately reflect the full range of county views on the issues could make big political gains, they say. And in the aftermath of last November's disaster, Democrats have almost everything to gain and the GOP has almost everything to lose. Sumner and others believe that the ability of the party to remold its image in the county depend in large part on whether it can recruit more of the county's burgeoning corps of "yuppies." Polls indicate that those relatively young, upwardly-mobile voters tended to support U.S. Senator Gary Hart of Colorado over Walter Mondale in the Democratic presidential primary. (Hart beat Mondale overwhelmingly in Orange County). However, they voted for Reagan on November 6th.

In any case, the county is thin in the ranks of blue-collar workers and blacks who formed a large part of the core of support for traditional New Deal-coalition candidates like Mondale. Even if a few Democratic leaders can be found who think such a candidate can command support elsewhere in the state or nation, none thinks it possible in Orange County.

Local Republicans concede that the GOP, too, must take the poll results seriously. "Obviously, we're not that far out of line from the county's voters or we wouldn't be winning," says former Orange County Republican Chairwoman Lois Lundberg, now a political consultant. "Still, I think we have to take a close look at such polls. It's just as big a challenge for our party to hang on to these seats and win big for the statewide ticket as it is for the Democrats to turn this situation around. And if we ignore any big segment of opinion, we might find ourselves in trouble." 



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(A review of top stories during the past 30 days)

BRADLEY APPROVES OIL DRILLING

(January 12th): Los Angeles Mayor Tom Bradley approved Occidental Petroleum's controversial proposal to drill for oil along the shore in Pacific Palisades. Bradley, a long-standing opponent of the project, said that he changed his mind after the oil company convinced him the drilling would not harm the area's fragile landscape. The decision stunned conservationists and could cost him heavily in April's mayoral election.

THE MORIARTY SCANDAL

(January 20th-21st): *The Los Angeles Times* reported that Richard Keith, a former aide to W. Patrick Moriarty, had said that many of the state's top politicians — including Governor Deukmejian and Lieutenant Governor Leo McCarthy — received laundered campaign contributions from Moriarty. The officials denied knowing the source of the funds (see story, page 107). *The Times* also reported Keith's allegations that Moriarty, the Orange County fireworks tycoon, provided prostitutes for state and local officeholders in an attempt to enhance his political clout.

BIRD DECLARES FOR ANOTHER TERM

(January 23rd): Chief Justice Rose Bird, apparently aiming to still speculation that she might resign, announced that she would seek reconfirmation in November 1986 for another term (see story, page 101). Opponents had been urging her to quit, while some of her supporters were speculating that her resignation would help the three liberal justices who will appear on the same ballot.

DEMOCRATS CONVENE

(January 26th): At the Democratic state convention in Sacramento, Betty Smith of Oakland was elected the new party chair to succeed Peter Kelly of Los Angeles. The 46-year-old Smith assumed the leadership of a party still unsure of how to regain its strength in the wake of President Reagan's victory. Various speakers warned that Democrats were dangerously out-of-touch with the electorate (see "Capitol Review," page 95).

LOTTERY COMMISSION NOMINEES

(January 29th): Governor Deukmejian culminated a months-long search by nominating five members to the state's newly-formed Lottery Commission (see story, page 96).

REAPPORTIONMENT TO U.S. HIGH COURT

(January 30th): California Republicans, citing a recent federal case in Indiana, asked the U.S. Supreme Court to overturn the state's current congressional apportionment. Alleging that the Democratically-controlled Legislature violated the federal Constitution by disregarding statewide voting patterns when it redrew the boundaries by 1982, Republicans said the result was that last November, GOP candidates won more votes than Democrats in November but captured only 18 of 45 House seats.

HIGHER GAS TAX PROPOSED

(January 30th): State Senator John Foran, Democratic chairman of the Senate Transportation Committee, introduced a bill (SB290) that would boost the state gasoline tax by a nickel and increase truck weight-fees by 50 percent. The package, backed also by highway contractors and developers, would raise \$670 million a year for highway maintenance, construction and mass transit. Last year a governor's task force on public-works improvements recommended the same increase, but it was rejected by Governor Deukmejian.

HIGH COURT SPLITS OVER PROP 8

(February 1st): A reluctant state Supreme Court voted 4-3 to uphold a major provision in the 1982 "victims' bill of rights" (Proposition 8). The provision, designed to strengthen the hand of prosecutors, requires state courts to follow less-strict federal rules concerning the introduction of evidence obtained illegally by police. Writing for the majority, Justice Joseph Grodin questioned the wisdom of the rule but said, "We are obliged . . . to give effect to the expression of public will." The ruling was the Court's third in five days dealing with Proposition 8. On January 28th it upheld a provision that allows judges to add five years to sentences given repeat offenders. However, it knocked down another that stripped juveniles of immunity at hearings meant to determine if they should be tried as adults.

STATE TO FEDS: CLEAN UP KESTERSON

(February 5th): The state Water Resources Control Board ordered the federal Bureau of Reclamation to clean up or shut down toxic-laden drainage ponds at Kesterson Wildlife Refuge in Merced County. The Bureau was given three years to complete the task but only five months to prepare a plan for it. Water flowing into the ponds from surrounding San Joaquin Valley farmlands has been found to be contaminated with toxics such as selenium. (For a story on the state Board, see page 110.) In a related matter, GOP state Senator Milton Marks and Democratic Assemblymember Robert Campbell, introduced legislation to prohibit the dumping of polluted agricultural wastewater from the Kesterson area into San Francisco or Monterey bays or into Sacramento-San Joaquin Delta. (On February 11th a Merced judge ordered the state to immediately close the ponds or appear in court March 15th to explain why they should remain open.)

GOVERNOR TO BUSINESS: OUST BIRD

(February 7th): Speaking to a gathering of business leaders, Governor Deukmejian suggested that the business community work for the defeat of Chief Justice Rose Bird and other liberal justices in 1986 because Supreme Court decisions have been bad for business. The governor offered no specifics initially but at a February 13th news conference said he was speaking of a trend toward "activist" rulings and offered 31 examples. He said he was not faulting every case, only the trend.

TWO FOR THE SENATE

(February 12th - 13th): Two Republican members of the California Legislature formally announced that they would seek the GOP nomination for the U.S. Senate seat now held by Democrat Alan Cranston. State Senator Ed Davis of Chatsworth and Assemblyman Robert Naylor of Menlo Park both launched their campaigns with news conferences around the state.

A. G. BLOCK

Perspective from
WASHINGTON
By *Leo Rennert*

Gulliver's travels

Unlike most other states, California found a big gold nugget in President Reagan's budget — a cornucopia of military goodies amid the myriad cuts in social programs. In launching his "Second American Revolution," the president may be a tight-fisted Scrooge with veterans, students and farmers, but he's the soul of generosity in ladling out defense contracts. That's small consolation for most parts of the country which face the bleak prospect of declining federal support in tackling social and economic problems — without offsetting benefits from military bases and weapons plants. In California, however, Reagan's priorities mean more jobs and more income for vast numbers of individuals and enterprises with a claim of Pentagon dollars.

THE ARITHMETIC OF REAGAN'S BUDGET yields a net economic plus for the state. Nationally, he wants to cut \$38 billion in social programs while boosting defense appropriations by \$30 billion. In California this means a loss of \$4 billion in federal spending on the domestic side of the ledger, but a larger gain of \$5.5 billion on the military side. The explanation is simple. California's share of non-military spending is about 10 percent. When it comes to military programs, however, it's nearly 20 percent. In regional terms, this is a budget that robs most other states to pay California.

But there's more to the story than a migration of dollars from military "have-not" states to military "have" states. Within California itself, there looms a massive shift from anti-poverty, urban-renewal, economic development, education, health and environmental concerns to high-tech aerospace projects. While champagne corks may pop in Silicon Valley labs at the prospect of sharing in a \$2 billion-plus hike in Star Wars research, state and local officials will have to send their own budgets back to the drawing boards to figure out how to provide public services without \$500 million in revenue-sharing grants. California cities and counties may be pinched particularly hard since they're restricted by Proposition 13 from offsetting federal losses with local property tax increases. The state treasury again may come under pressure to bail out local jurisdictions.

The president is selling his budget cuts as the only way to reduce record-size deficits. Without chopping domestic programs, he argues, annual deficits would continue above \$200 billion for the rest of the decade. But closer examination shows the budget is really his last ideological hurrah to complete the "cut, trim and squeeze" crusade against social programs he began in Sacramento 18 years ago. Before his power as a lame-duck president dissipates, Reagan is trying one more time to put a conservative brand on the functions and priorities of government. His budget doesn't reduce red ink as much as it shifts money from domestic programs to defense. Deficits remain a secondary consideration with Reagan, who still believes explosive economic growth somewhere down the line will yield a balanced budget.

To pay for the defense buildup, California would lose not just federal dollars to help the poor, but also a big slice of federal subsidies, grants and loans for middle-class and business groups. The state's international trading firms would have to fend without \$545 million in Export-Import Bank loans. Price supports for financially hard-pressed farmers would be slashed. Cities would lose mass-transit funds and urban development action grants to attract major developers. California schools chief Bill Honig immediately complained that Washington is pulling the plug on critically needed programs for refugee and migrant children. Ironically, Reagan's budget, while increasing the number of civilian and military personnel, chops "impact" aid for schools near defense installations. Colleges and universities are up in arms over big cuts in student aid.

The reaction of California officials was fairly predictable. Governor Deukmejian, sitting on top of a big state surplus, kept silent as he assessed the mixed impact on his state. The White House sees him as a loyal trooper not apt to roil the waters. Republican Senator Pete Wilson, caught in cross-fire between California winners and losers, went into a long period of contemplation. Democratic Senator Alan Cranston, moving to the right to strengthen his 1986 reelection prospects, issued a mild protest. He criticized Reagan for not going far enough in reducing the deficit and suggested a freeze in defense spending — an echo of the position taken by many Senate Republicans.

DEMOCRATS IN CALIFORNIA'S HOUSE delegation were more vocal as they sought to mobilize adversely affected constituencies. Leon Panetta of Monterey said Reagan again submitted a budget that ignores fairness, balance, effectiveness and realism. While some Democrats with military bases applauded defense increases, George Miller of Martinez said Lockheed "doesn't have an employment window" for the elderly, blind, disabled and children. Miller took particular aim at cuts in nutrition programs for pregnant women. "While this administration is against abortion, it is fully prepared to see that fetus starve to death during pregnancy," he declared.

However, despite all the rhetoric, Democrats don't seem able to patch together a counter-budget. West Sacramento Congressman Vic Fazio argued that "every sacred cow may have to come in for some slaughtering" to get the deficit under control. But that's just the problem. After Walter Mondale's calamitous defeat, Democrats are in no mood to repeat his call for a tax increase and go after "sacred cows" that benefitted from Reagan's big tax cut. They're also in no mood to freeze Social Security benefits. The only thing left is a likely modest shift of \$15 billion to \$20 billion from defense to social programs in a nearly trillion-dollar budget. Congress may have declared Reagan's budget dead on arrival; but in the 1985 battle over the nation's basic priorities, he already is a clear winner. With most Democrats acting like Lilliputians, Gulliver marches on.

BOOK BARGAINS FROM CALIFORNIA JOURNAL

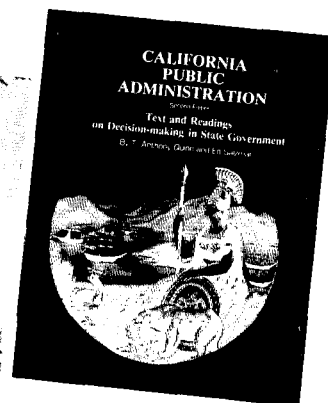
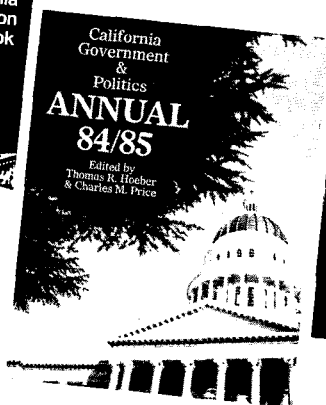
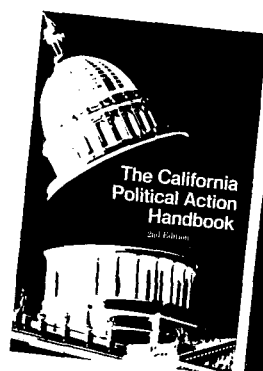
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